APPENDIX B

WRITTEN COMMENTS
SUPPLEMENTAL SCOPING MEETINGS

Cooperstown, North Dakota, Meeting

- C040401-Christopherson
- C040401-Lunde

Devils Lake, North Dakota, Meeting

- DL040301-Chattin
- DL040301-Erickstart
- DL040301-Herman
- DL040301-LaLonde
- DL040301-Ovre

Spirit Lake, North Dakota, Meeting

- SL040301-Shaw
- SL040301-Spirit Lake Basin Alliance
- SL040301-Unknown

Valley City, North Dakota, Meeting

- VC040401-Berg
- VC040401-Betting, Save the Sheyenne
- VC040401-Duppler
- VC040401-Herman
- VC040401-Lafleur
- VC040401-Stevens
- VC040401-Tangen, Save the Sheyenne
- VC040401-Voldal
- VC040401-Unknown A
- VC040401-Unknown B

Other Comments Recieved

- No Date-Beach
- 041601-Beard, National Audubon Society
- No Date-Bemis
- No Date-Bittner
- 041801-Bloomgren, Minnesota Department of Health
- 040401-Boknecht
- 042001-Buckhout, Minnesota Department of Natural Resources
- No Date-Burchill
- 041101-Goulding
- 042001-Kellow, Transboundary Waters Unit Environment Canada
- 041701-Kotchman
- 040901-Kwapinski
- 040901-Legge
- 041001-Legge
- 042001-Mahfood, Missouri Department of Natural Resources
- No Date-Moore
- No Date-Ovre
- 041701-Paulson, Peterson Coulee Association
- 040801-Pearson
- 041201-Perkins
- 042001-Pytlik
- No Date-B. Sauer
- No Date-M. Sauer A
- No Date-M. Sauer B
- No Date-Y. Sauer
- 041701-Schneider
- No Date-Unknown A
- No Date-Unknown B
- 040901-Vandrovee
- 040401-Vig
- 041901-Webster

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

COMMENT FORM: The purpose of these meetings is to identify any new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement. Any new issues can be identified on this form and mailed to the Corps at the following address by 20 April 2001. Email responses are also acceptable.

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

After sitting and listening to the Corps presentation, getting input from the state Water Commission, and someone from the Ramsey County Area, I have gotten the thought that We along the Sheyenne river are going to get dumped on no matter what We want or how loud We complain. I believe its been decided so Why does your bus They coming around to hold meetings. Your P.R. is lousy!

Wayne Christopherson
Cooperstown

U.S. Corps of Engineers
ATTN: PM-E (Anfang)
St Paul, MN

Subject: Draining of Devils Lake Water into the Sheyenne River

The Sheyenne River is a slow, small, meandering river and was never meant to be used as a drainage ditch. Bank erosion is bad now. What would it be if it ran full all summer?

We have been working at removing log jams caused mostly by dutch elm disease froms the Griggs/Nelson County Lines south to the Cooperstown Bible Camp. I have canoed this stretch of river in 1999 and 2000. The difference, caused mostly by the June, 2000 flood, was dramatic in places. This would only be made worse by running it full through the summer months. Both live and dead trees on the banks are being undermined and falling into the channel from high water levels now.

I live on the banks of the Sheyenne and about half of my farmland goes under water each spring. When the river goes over its banks in the low areas, it backs into the fields immediately and stays there till it drops. A day of water is enough to kill crops.

My questions is how can you be running the river full and have any hope of handling a 1 to 3" rain between the Devils Lake area and here without causing damage to the landowners along the river. We have enough illegal drains already adding to our problems.

The Sheyenne was out of its banks four times in 2000 -- in June, July, August, and October. How much use would it have been as a drain to help the Devils Lake area, unless of course, you don't care about how much damage you cause along the river. The belief of many people is "if we can get the water to the

river it is no longer a problem. The truth is it's somebody elses problem and that is what this whole thing is about -- transferring a bad problem to another group of people.

Thank you.

Wayne Christopherson
740 118th Ave. NE
Cooperstown, ND 58425-9377
701 797-2655

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
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As a rancher raising livestock in the Sheyenne Valley near Cooperstown our geographical location is facing a double threat. #1 Baldhill dam's ~~first~~ five foot raise for temporary storage and #2 ~~If~~ pouring of more water from Devils Lake through an outlet. Below Baldhill wants flood protection and water supply. Devils Lake wants to drain their overflowing basin. One team turning on the faucet, the other ~~turning~~ opening or closing the drain plug. And those in between are too few to count and only hope the two will not forget them.

Nathan Lunde 1104 Park Ave NE
Cooperstown N.D. 58425

Cooperstown, ND
April 4, 2001

Corps of Engineers Public Hearing,

My name is David Lunde from southeast of Cooperstown. Our farm is located along the Sheyenne river valley where my grandfather homesteaded 120 years ago.

Maybe I should question any influence one individual's comments can have on the outcome of these hearings - just one voice in the wilderness of bureaucracy. Maybe not.

I've witnessed and remember various scenarios concerning the river, from flooding to the river being totally dry, except deeper sections of the riverbed that pooled water. I recall November 1939 the river started flowing from pond to pond. As a young lad I walked in front of the pointed stream which widened as it approached the next pool of water - the fish leaping in the shallow stream. I remember the spring of 1952, just two years after the big flood of 1950, the spring runoff was only a trickle and in areas of the river it was only about six feet wide. We do see drastic weather changes and dry years can come again.

We do have empathy for our neighbors to the north in the Devil's Lake Basin. We see an ever rising Devil's Lake soon to flow into Stump Lake and if it continues rising it will flow naturally into the Sheyenne.

The big question, the unknown, is if that will take place. If it does, we're all in real trouble, here and downstream. In the meantime our concern here is if an outlet is in place and the river at Cooperstown is running bank full from that outlet drain and then a cloudburst occurs, what will be the extent of our problems? Would we not face the same event as a spring flood with bank and field erosion, crops inundated and homes threatened? What compensation would there be for an individual land owner? I assume if a city downstream were to be affected, no doubt the whole force of government assistance would be in place.

We face a dilemma. Should we be in favor of helping out our neighbors to the north, perhaps to our detriment, or are we to be opposed to the outlet drain and take our chances that the wet cycle is soon over and nature will remove the threat of Devil's Lake water flowing directly into the Sheyenne?

Therefore, the question for me is what protection and compensation will be provided for downstream interests? What assurance or guarantee that the drain will be controlled to minimize damage here as a result of the outlet drain? I will be looking for your answers.

Thank you.

DL040301-Chattin

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DEVILS LAKE STUDY
2 – 5 APRIL 2001

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robert.a.anfang@usace.army.mil

Jim Chattin
623 4th Ave, DL
58301

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

I would encourage that any cost/benefit analysis include the potential costs incurred if a natural overflow event occurred.
↖ (Jeff McGrath, economist)

Though in the (definite) minority I still believe the USCOE needs to hold tight w/ a west end controlled outlet.

DL040301-Erickstart

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2 – 5 APRIL 2001

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Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

Regarding upper Basin Storage:

1. We have lands underladen & saline soluable salts.
2. Artificial storage creates underground hydrolic pressure washing up the salts on adjacent lands.

This creates two effects

1. The salts destroy quality of productive land
2. The resultant exposed salts are therefore increasingly washed downstream into the lake.

Question: Is it mandatory that EIS be done in the upper basin before any implementation of water storage be done?

David Erickstad. Webster N.D

U.S. Army Corps of Engineers
Testimony for April 2001 scoping meeting

I wish to address environmental considerations of Devils Lake outlet options. I believe downstream effects have been overemphasized. Let us consider the environmental impact on the lake and give priority to maintaining the natural outlet.

Our congressional delegation has compromised our rights to Missouri River water when it will be needed in the future to stabilize the lake in a dry cycle. Coupled with a west end outlet which prevents the flow through to the natural east end outlet will hasten a fish kill. The lake is too valuable to destroy with an unnatural west end outlet. The advocacy of a Tolna Coulee outlet by Spirit Lake Nation, Devils Lake City Commission, the Devils Lake Basin Joint Board and others should be commended and joined.

Our state should go ahead with this outlet. Downstream interests should support controlled release as a means to prevent or reduce chances of a disastrous natural overflow. The U.S. Corps of Engineers has indicated that with a natural overflow a "soft plug" of sediment in the upper Tolna Coulee would erode away in 168 days resulting in 12,500 cfs over a six month period. This would be devastating downstream to Fargo and beyond. The U.S. Geological Service states that the erosion would continue down to 1446.5 ft. This lends support for an operating lake level near present levels as that would be the natural result. Also, highway and levy raises would be minimal.

Some have feared we have lost cost-benefit ratios to favor an outlet due to movement of houses, etc. With a lake at 1460 we would loose another 100,000 acres of prime farmland and it would not be feasible to raise several highways. This along with losses downstream from an uncontrolled overflow justify prompt construction of the lowest cost and most natural Tolna Coulee controlled outlet.

We should not be intimidated by fears of litigation. Senator Jack Traynor, an attorney, has advised that those preventing operation of an outlet can be held responsible for damages. I invite our congressional delegation, Corps and all others to allow the building of the Tolna Coulee outlet. Federal funding should mitigate downstream bank stabilization and water treatment costs. If lower quality Stump Lake water is objectionable, the fresher, after filling Stump Lake, Devils Lake water could be channeled along the west shore of Stump Lake directly to the Tolna outlet control structure. This would allow blending of water from the Devils Lake canal or directly out of Stump Lake, depending on downstream water quality considerations. The cost of this "unnatural addition" to favor downstream concerns should not be borne locally.

With a stable lake, recreation and tourism developments could go forward. Perhaps electrical generation at Baldhill would be feasible with more stable flow from Devils Lake. Also, the nutrients in Devils Lake water would have value to irrigators downstream as well as extending Sheyenne River water availability perhaps a few years longer into a dry cycle.

Let us go forward with an outlet which is the lowest in cost, most nearly natural, and therefore most legally and politically correct.

ARDON & AUDREY HERMAN
5455 62nd AVE. N.E.
MINNEWAUKAN, ND 58351-9530
701-466-2389

Good evening and thank you for the opportunity to speak to you concerning this very important matter. My name is Johnathan LaLonde and I am the golf course superintendent at the Devils Lake Town and Country Club. I would like to speak briefly on the effects the Devils Lake rise has had on our facility over the past seven years and how future rises in elevation would effect our facility.

The Devils Lake Town and Country Club have been greatly affected by the rise of Devils Lake. During this past period of lake rise the Country Club has lost the use of one full hole. The Country Club has also lost our driving range area due to the rise in the lake elevation. Our parking area has been reduced in half by the lake rise. The Club has had to move cart storage buildings and the maintenance building due to the rise in lake elevation. We have also lost our boat landing and boat lift area to the lake. These are the most significant problems that we have had to face due to Devils Lake's rise in elevation.

If an outlet for the lake is not constructed and the lake is allowed to rise past the 1449 elevation the Club would be faced with the loss of another green to the lake. This will force us to reconfigure our course and to construct a new green and hole. We have not heard from the county what elevation the Club house and our building's sewer system is at, but this could also become a serious problem if the lake is allowed to continue to rise.

In short the rise in elevation of Devils Lake has and will continue to impact the Devils Lake Town and Country Club and its membership. We are well aware that if the dike is raised to a 1460 elevation protection level this will also affect our portion of the dike.

I feel that the answer to the Devils Lake problem is the construction of an outlet for the lake. Lake stabilization will not only benefit the Town and Country Club but more importantly the community and the region as a whole. I am aware of the concerns of those individuals on the downstream portion of the Sheyenne River who would be impacted by a Devils Lake outlet. O hope that these individuals are also concerned about the impact that the lake's elevation rise has had on our region. I also hope that these same individuals understand that a controlled flow of water would be much better than to let the lake rise to a level where it would have an

uncontrolled flow into the Sheyenne River. I also hope that the individuals who will make the final decision on whether an outlet is built keep in mind the impact that the lake's uncontrolled rise in elevation has had on this region as they make their decision. I hope that these same individuals ask themselves this question: How much more money do we spend to raise roads and dikes, move home, and compensate landowners who lose their land to the lake before lake stabilization and an outlet for the lake becomes the answer to the Devils Lake problem? I hope that the individuals who will make the decision will answer this question by saying: We have net that financial burden and move forward with the planning and construction of a Devils Lake outlet as quickly as possible.

I would again like to thank you for the opportunity to speak before you on this very important matter.

Johnathan LaLonde
Golf Course Superintendent
Devils Lake Town and County Club
Devils Lake, ND

711 Lakeshore Drive NW
Devils Lake, ND 58301
April 3, 2001

I urge you to begin building the Devils Lake outlet immediately.

Our family moved to DL five years ago and sank a good portion of our life savings into our dream house. It was located in a thriving wooded development named Eagle Bend along Creel Bay, close to the city. We were so pleased with the little neighborhood of about 35 homes, most with young families. There was a playground and around a dozen young boys for our son to play ball with.

Quickly things changed. House after house had to be moved away to escape the rising water. The playground went under. The beautiful trees died in the water or had to be cut to allow the removal of homes. Incessant truckloads of dike building materials were brought in so we were treated to the whine of machinery day and night along with dust and mud. Now we have to cross an unsightly dike to get to our home, which is one of four remaining on the wrong side of the dike; and only nine families remain in the development. Each of these families has endured great expense to keep up the fight to live here, and we are grateful for the dike, for it has saved our access road. But even though our home is second highest of the four, our walkout basement is at an elevation of 1455 and the water has taken away more than half of our back yard. We fear the future. We don't want to lose our neighbors, and we don't want anyone else to go through the wrenching experiences of sandbagging, hurried packing and loss.

My husband, a Lutheran clergy and I have heard countless stories of suffering from our parishioners because of the effects of the ongoing flooding. I wish powerful lobbyists could experience the anguish we in Devils Lake feel whenever heavy rains or another winter storm further raises the level. The economic toll to our entire region has been and continues to be devastating. The emotional toll is enormous. Delaying actions of environmental organizations and downstream interests have caused clinical depression among many of our citizens.

Perhaps worst hit of all have been our region's farmers. They have already been hurt because wet cycles impact durum with midge and scab; the continued low prices for commodities combined with losing more production lands is a triple whammy. While some upper basin storage is part of the answer; it cannot provide the whole solution. We need to do everything we can to help our farms survive.

There is an old adage that you reap what you sow. If all factions sow minor sacrifices now while we still have a chance to correct this disaster; we shall all have a prosperous future--we will have a good yield. Our part of the state has already made major sacrifices of time, money, effort and cropland. But if we do not take action now, the lake is likely to overflow by itself and cause a far greater calamity to the Sheyenne Valley, affecting our entire state, both financially and environmentally. That sounds like a crop failure to me.

Canadians oppose our water quality. Residents of Devils Lake are not responsible for the present quality of our water; nor for the quality of water the Sheyenne, Red and Canadian rivers will be receiving once Stump Lake floods over. Ample warning has been given. And just maybe we should be entitled to the same quality of water that the Canadians demand we send them. (It would be a neat trick to work that into NAFTA--this is a joke.)

We long for this struggle to end. The Devils Lake region could be a mecca for agriculture, for services, tourism and trade with a controlled outlet. Without the help you have power to give it is likely to become a disaster area on a massive scale similar to our beloved and ravaged Eagle Bend.

The right and lasting solution is an outlet. **It is long past overdue.**

Sincerely,

Judy Ovre

Judy Goplen Ovre (Mrs. Harold Ovre)

SUPPLEMENTAL SCOPING MEETINGS
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2 – 5 APRIL 2001

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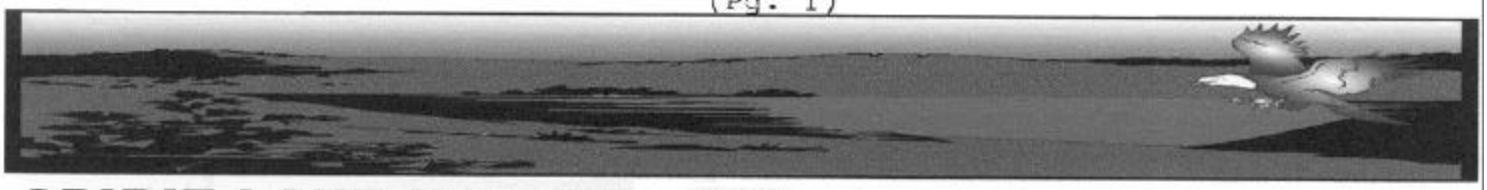
We, elders, have voiced our opinions against an outlet across our native lands. a resolution opposing ~~State~~ an outlet is being submitted for protection against ~~such~~ any action by the State Water Commission and others who are in support of an emergency outlet.

Alvis J. Shaw Box 235, Fort Totten, ND 58335. E-mail: ajshaw@stellarnet.com



SPIRIT LAKE NATION ⟪⟫ ***SPIRIT LAKE BASIN ALLIANCE***

Box 491, Ft. Totten, ND 58335 * Tel: 766-1289 * Fax: 766-1280

April 3, 2001

Department of the Army
St. Paul District Corps of Engineers
190 Fifth Street East
St. Paul, Minnesota 55101-1638

RE: Public Scoping Process

The Spirit Lake Basin Alliance was created through Tribal Resolution A05-98-032 to provide community guidance and to ensure environmental justice concerns are addressed in the proposed water projects for the Mni Wakan. The committee is comprised of tribal members, Indigenous Nations, community organizations and individuals.

Spirit Lake Nation recognizes the alliance of Sovereign Indian Nations on the long-term welfare of the Mni Wakan, which is recognized by Tribal Resolution A05-99-009 as sacred and culturally significant. The Mni Wakan (Sacred Water) represents to Indigenous Nations and Peoples the fundamental recognition of traditional values, spirituality and inherent knowledge associated with 'respect' for the land, water, and all of life. Spirit Lake Nation recognizes and respects their stewardship role of the Mni Wakan for all Indigenous Nations and Peoples, and the moral and spiritual obligation to protect, preserve and manage the Mni Wakan for future generations. The scoping process must include all interests, concerns and cultural perspective of Indigenous Nations and Peoples. Failure to disregard the cultural perspective of Spirit Lake Nation, Indigenous Nations and Peoples is failure to negotiate in good faith on the social, cultural, economic and ecological impacts associated with the proposed outlets.

The position of the Spirit Lake Basin Alliance remains consistent with prior written and oral recommendations made at Congressional and State hearings on the proposed outlet. In accordance with Tribal Resolution A05-98-031, the Spirit Lake Tribe recognizes the urgent need to conduct environmental mitigation impact studies under the National Environmental Policy Act, the National Historic Preservation Act, Executive Orders on Sacred Sites and Environmental Justice on proposed water projects. Any proposed federal and state action on the Mni Wakan without first consulting Spirit Lake Nation, Spirit Lake Basin Alliance, Indigenous Nations and Peoples will be viewed as a direct threat against the physical, mental and spiritual well-being of the people, and their natural environment.

The past, present, and future decisions on the well-being of the Mni Wakan must include a full EIS process, and that the current Administration respect the voice of Spirit Lake Nation and Indigenous Nations.

Respectfully Yours,

Spirit Lake Basin Alliance

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
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robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

Spirit Lake Nation was not included in planning for Mni Wakan the sacred Waters of our Nation. Trying to understand why we oppose the outlet. If you had any interest of who we are as a people instead of claiming our land, you would have worked with us rather than seeing only what you think is best

➢ SCOPING COMMENT TO CORPS OF ENGINEERS

- ➢ There is a misconception that the Devils Lake Basin can hold a significant amount of water upstream. We have been storing water in the upper basin since the wet years hit. Townships don't want more water destroying roads. Simply stating that plugging drains would solve Devils Lakes flooding problems is an irresponsible statement. The State Water Commission has had a program out since 1995 and everyone that can store water is doing so. Most people that applied were denied for one reason or the other.
- ➢ People want clean water and nothing but clean water is acceptable in this day and age. You must ask yourself if Devils Lake's best water isn't acceptable then why are we considering an outlet with any thing less than a purifying plant? When we hear people from Devils Lake state over and over that they don't want a West End outlet because it will destroy the lake. When we hear Canadian concerns about biota transfer and Valley City's concerns about water quality how can we consider any other course of action?
- ➢ The Devils Lake proposed outlet has a price tag of 100 million with a 3.5 million operating cost it has stated. The cost of a water purification plant will also cost 100 million with an annual operating cost of 2 million this has also been stated. When you compare these why wouldn't you spend the money on a solution that repairs the problem instead of wasting the money pumping water that no one wants?
- ➢ An East end water purification plant is the only plan that solves the environmental concerns as well as the flooding concerns. The cities along the Sheyenne and Red rivers could embrace clean water they could use and grow their communities with. The people of Devils Lake could look forward to a freshening lake as time goes by and flooding will receded. North Dakota can present Canada a plan that doesn't threaten their fisheries. Certainly the benefits far outweigh the costs.

Arne J. Berg

Ramsey County Commissioner

To: District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PM-E (Anfang)
190 5th Street east
St. Paul, MN 55101-1638

From: Richard Betting, Secretary
People To Save the Sheyenne
11630 39 St. SE
Valley City, ND 58072

Re: Devils Lake outlet scoping study
Valley City, North Dakota
April 4, 2001

I have several questions that I ask the U.S. Corps of Engineers to answer before a decision to build an outlet from Devils Lake to the Sheyenne River is made.

1. The Devils Lake Study Newsletter, Issue # 4, March 2001, says that a "previous study did not address the downstream effects that could occur due to a natural overflow from Devils Lake."

A. Where is the "previous study?" I think that study should be made public because decisions were based on it, and "Congressional interests" wished to conceal the conclusions the Corps made (partially) public in the spring of 1999 when it decided to wait to do anything about an outlet until Devils Lake rose another five or six feet.

B. What differences are there between the two purposes described, the original one and this new one, "to reduce the potential for a natural overflow event"?

2. Water quality issues: How many of the over fifty fish species will be unable to reproduce in the Sheyenne River after Devils Lake water reduces its quality? Who will be responsible for that and pay for the loss? How will the loss of fish species affect the quality of the river? How many of the mussel species will be unable to reproduce? Since some mussels are now protected by law, how will their loss be mitigated, explained? How will the invertebrates be affected? What will the effects of invertebrate loss be on other aquatic life forms?

3. Who will be responsible and pay for downstream damages from added flooding and bank erosion? How will these damages be assessed, by whom? What are the baseline data necessary to know when damages occur? Have those data been collected yet?

4. How much has drainage in the upper basin of Devils Lake contributed to the added flooding on Devils Lake? What techniques will the Corps use to determine this? I object to the unscientific procedures used by the Bureau of Reclamation in

its study: "Pilot Project: Wetlands Inventory and Drained Wetlands Water Storage Capacity Estimation for the St. Joe-Calio Coulee Subbasin of the Greater Devils Lake Basin, North Dakota," 2-17-99.
The U.S. Fish and Wildlife Service studies, on the other hand, show a much larger number of drained wetlands and seems to have a more accurate method of measuring them.
This issue is key to the Devils Lake flooding issue. If upper basin drainage of wetlands is a significant contributor to higher water on Devils Lake, the obvious solution is to reduce drainage of wetlands, not letting water out so that even more drainage of upper basin wetlands is encouraged. Your job is to find out the answer to this difficult but basic question.

5. Why should citizens whose lives and properties will be adversely affected by projects such as the Devils Lake outlet have to spend their time, money and emotional resources to gather data that should be available before any discussions about building the project begin? And why should citizens have to defend their property from harm from those agencies that have been put in place to protect them? I speak of the North Dakota State Water Commission, the North Dakota legislature, the US Geological Survey and others. Why haven't the studies we are asking for been done already? When unscientific and biased studies are done—and paid for with my money—why must I hire experts to refute them?

6. Will dumping Devils Lake water into the Sheyenne River violate water quality standards? If so, on what basis and with what explanation or justification? Is water degradation a defensible activity, considering the fact that water quality is generally decreasing while water use is increasing, since we will soon be paying more to keep the potable water we have usable?

7. Who can we trust to give us accurate information, honest scientific data, and then draw sound economic, environmental, social and political conclusions from it when projects are being built and policies are being determined?

8. Correlate the annual precipitation in the Devils Lake basin and the upper basin in the last hundred years with the number of drains constructed in the upper basin and then compare this with the rise and fall of Devils Lake. What are the correlations? Can the recent rise in the level of Devils Lake be attributed only to an increase [of about five inches annually, or about twenty-five per cent] in annual precipitation?

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UNIVERSITY OF NORTH DAKOTA

NORTH DAKOTA
STATE WATER COMMISSION

Climatology and Potential Effects of an Emergency Outlet, Devils Lake Basin, North Dakota

Introduction

The Devils Lake Basin is a 3,810-square-mile subbasin (fig. 1) in the Red River of the North Basin. At an elevation of about 1,447 feet above sea level, Devils Lake begins to spill into Stump Lake; and at an elevation of about 1,459 feet above sea level, the combined lakes begin to spill through Tolna Coulee into the Sheyenne River (fig. 2).

Since the end of glaciation about 10,000 years ago, Devils Lake has fluctuated between spilling and being dry. Research by the North Dakota Geological Survey indicates Devils Lake has overflowed into the Sheyenne River at least twice during the past 4,000 years and has spilled into the Stump Lakes several times (Bluemle, 1991; Murphy and others, 1997). John Bluemle, North Dakota State Geologist, concluded the natural condition for Devils Lake is either rising or falling, and the lake should not be expected to remain at any elevation for a long period of time.

Recent conditions indicate the lake is in a rising phase. The lake rose 24.7 feet from February 1993 to August 1999, and flood damages in the Devils Lake Basin have exceeded $300 million. These damages, and the potential for additional damages, have led to an effort to develop an outlet to help control lake levels. Therefore, current and accurate climatologic and hydrologic data are needed to assess the viability of the various options to reduce flood damages at Devils Lake.

Climatology

Nature of Climate Variability

Devils Lake responds directly to climate variability across the region. This climate variability generally can be regarded as the movement of the jet stream from season to season and from year to year. As weather systems move, they are guided along the jet stream. Climate variability results from a long-

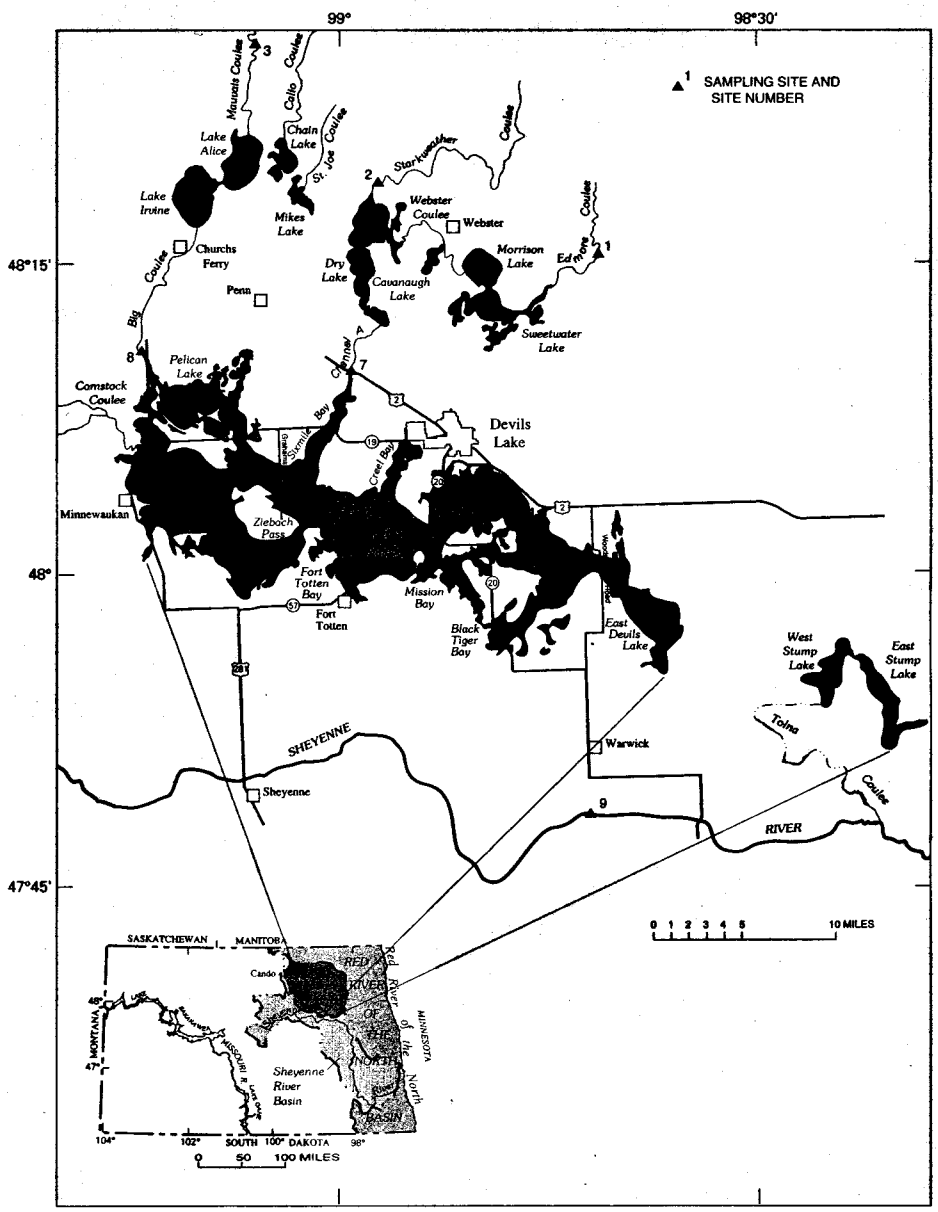
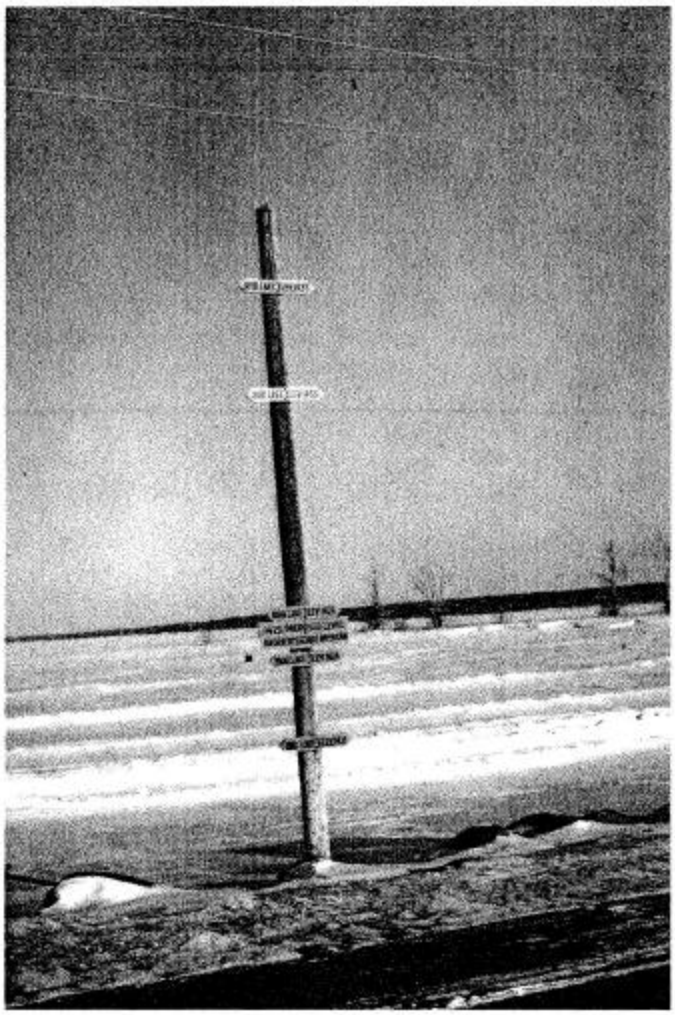


Figure 1. Location of the Devils Lake Basin, Devils Lake and Stump Lakes, and the Sheyenne River.

The Jerusalem and Tolna Outlets in the Devils Lake Basin, North Dakota

by

Edward C. Murphy, Ann M.K. Fritz, and R. Farley Fleming



Report of Investigation No. 100
North Dakota Geological Survey
John P. Bluemle, State Geologist
1997

The Jerusalem and Tolna Outlets in the Devils Lake Basin, North Dakota Edward C. Murphy, Ann M.K. Fritz, and R. Farley Fleming North Dakota Geological Survey 1997 R.I. 100

Norma Duppler
Barnes County Emergency Management
Room 201, 230 NW 4th Street
Valley City, ND 58072
1-701-845-8510

April 4, 2001

To: Robert Anfang of the US Army Corps of Engineers on Devils Lake Outlet Scoping Process

As the emergency manager of Barnes County, I have a number of professional and private concerns about the possible outlet from Devils Lake into the Sheyenne River. They include water quality, quantity, increased erosion, flooding potential, damage to downstream areas, lack of benefit for the downstream recipients as well as lack of benefit for the Devils Lake area versus the cost of the outlet, and the Canadian precedent.

- Since this is not mere run off that the Corps will dump into the Sheyenne, but water that has already mixed with Devils Lake water, what will this do to the biota, the stock watered from the river, the aquifers fed by the river, and the gardens and crops watered by the Sheyenne? The amount dumped into the river will completely overwhelm the quality of the Sheyenne water.

- Valley City's water treatment plant can only clean water to 1000 parts per million total dissolved solids. Won't the water running into the Sheyenne through the outlet be worse than this? Who will pay for our $10 million reverse osmosis water treatment plant or the $10 million to bring in well water from the Spiritwood Aquifer? If the plant is paid for, who pays for the increased water treatment costs?

- The Sheyenne by nature is a river designed to carry 50 CFS in non-flood times. What will the 400 or whatever CFS that the Corps ends up dumping into the river do to such a tiny river? The current is lazy at 50 CFS, but it rips along at 400 or 500 CFS because the Sheyenne drops at least a foot a mile.

- The higher amounts of water will inevitably cause dramatically increased erosion. We who are downstream of Baldhill Dam have already seen the results of increased erosion. For instance, I was unable to see across the river at my home 12 miles south of Valley City since the view was blocked by trees. Because all the 100 and 200-year old trees have fallen in the river from erosion just from the wet cycle the past nine years, I now have an undisturbed view of the west side of the valley.

  Also, the Sheyenne has moved an entire river channel closer to my home from the wet cycle. This is just water that is supposed to be in the river exacerbated by the dam effect which prolongs the period of

high water for each flood event. What is going to happen when 400 or more CFS floods the channel seven months a year?

- The flooding potential is dramatically raised for each thunderstorm event. Since it is impossible to "turn off" the water immediately at Valley City and points south with outlet water already in the channel, this means a severe event, like occurred in 1993 and several other times, will mean a foot more elevation on the flood plain being inundated. How can the Corps mitigate this?

- Since there is only a .06 percent of Devils Lake overflowing into the Sheyenne in the next 50 years without an outlet, and .03 percent of it happening with an outlet, there is no protection benefit from an outlet for downstream areas. Why should we accept the water?

- Since the outlet will only prevent a few inches of rise on the lake in a year while Devils Lake will continue a net gain, there is no real benefit for the Devils Lake area – just a perception of relief and a political juggernaut. How can the Corps benefit the Devils Lake area without dumping 3000 to 4000 CFS into the Sheyenne? At what cost will these few inches be?

- Devils Lake has received tremendous amounts of relief for FAS highways, FEMA relief, and flood insurance relief for moving homes prior to damage. What will be done for us downstream for the inevitable damage we will receive from the outlet?

  Who is going to pay for my home when it falls in the river 40 years sooner than it would have because of the outlet water? There is no flood insurance for landslides. There is no household insurance for landslides. (Had it not been for the wet cycle, my home wouldn't have been threatened at all. The banks at our place had been stable more than 100 years as testified to by the trees. Now there is no longer a low easy sloping bank and a high steep bank, but two steep banks, one undercut. This is without Devils Lake water exacerbating the situation.)

- Isn't this going to set a nasty precedent with the Canadians? Besides violating treaties, more water flows south than north.

Until these questions are answered, I cannot support an outlet.

Sincerely,

Norma Duppler

Norma Duppler

VC040401-Herman

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

COMMENT FORM: The purpose of these meetings is to identify any new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement. Any new issues can be identified on this form and mailed to the Corps at the following address by 20 April 2001. Email responses are also acceptable.

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

favor E. end outlet

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

"Armoring" the Tolna outlet to prevent an erosion flood not fair to those flooded by Lake - Controled outlet prevents both floods.
Minnesota should be "good neighbor" - they've drained lakes into Red R & their dikes along R.R. are 2' higher than N.D. side.
Canada? little effort at border. We mean them no harm is natural outlet. They've diked along Pembina R. to force flood on N.D side.
May have to renegotiate treaty - firmly

(Ad to prior letter from Ardon Herman

ARDON & AUDREY HERMAN
5455 62nd AVE. N.E.
MINNEWAUKAN, ND 58351-9530
701-466-2389

Ruth Lefleur

Cost to benifit ratio:
we must use MATH which
is CAPABLE of RECOGNIZING
the failure of previous
models the ADJUSTMENT to A
LAKE vs. RIVERINE MODEL
must be also applied downstream.

With Devils Lake NATURALLY
overflowing the Sheyenne
will already be IN A high flow
CONDITION, the AVE. ANNUAL INFLOW
to Devils Lake the past 7 years
would take 291 DAYS at
Flood Stage this has Nothing
to SAY ABOUT the WATER
ALREADY IN the Sheyenne System
This is Not A RIVERINE

CONDITION WHICH CAN
be modeled AFTER SEASONAL
flooding. The C/B RATIO
MUST ADDRESS THIS
IRREGULARITY

April 4,2001

District Engineer, St. Paul District
U.S. Army Corps of Engineers
190 5th Street East
St. Paul MN 55101-1638

Dear Robert A. Anfang,

My name is Jim Stevens. Our family owns a cattle ranch in the Sheyenne Valley about 11 miles south of Valley City. We have grandchildren living on this ranch who are sixth generation of our family who have resided on parts of this ranch. Living where I do, my main concerns on the proposed Devils Lake outlet are water quality, downstream flooding and erosion.

It has been documented what the additional costs would be in protecting the Devils Lake area from possible higher levels of water in the lake. Have any studies been done on the possible costs of protecting homes, farm buildings, towns and other property downstream on the Sheyenne and Red if an outlet should be built?

In the summer of 1993, the Valley City area received a heavy rain of 10 to 12 inches. We had a major flood in less than 12 hours. Back in 1975, the Kathryn area received a similar heavy rain. More recently the Fargo and Grand Forks areas have experienced similar rains. In any of these events water from a Devils Lake outlet could have increased the flow to an uncontollable level.

We are in an age of tourism and recreation. The picturesque Sheyenne Valley from Lake Ashtabula to Lisbon is a favorite area for hundreds of families to spend vacation time. Those of us who have lived here our entire lives and have made our living in this valley want to see it enhanced, not destroyed.

It has been stated that there is less than a 2 percent chance that Devils Lake, will overflow naturally in the next 15 years. If a Devils Lake outlet is built, I can assure you that there is a far greater chance of disaster in the downstream Sheyenne and Red River basin. The cost of dredging and straightening the Sheyenne River and in relocating homes, farmsteads and towns would be much higher than continued protection in the Devils Lake basin. Much of the Devils Lake protection has already been done. It was not our land that was drained into Devils Lake. Please use all caution before you transfer their problem to innocent people all the way downstream to the Canadian border. Thank you for your time.

Respectfully yours,

Jim Stevens

Jim Stevens
4423 County Road 21
Valley City ND 58072

To: District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PM-E (Anfang)
190 5th Street east
St. Paul, MN 55101-1638

From: Neil Tangen, Chairman
People To Save the Sheyenne
5193 119 Ave. SE
Kathryn, North Dakota 58049

Re: Devils Lake outlet scoping meeting
Valley City, North Dakota
April 4, 2001

I am a landowner in Barnes County. The Sheyenne River runs through my land, so I farm and ranch on both sides of the river. I am very opposed to water in the Sheyenne River from Devils Lake drainage. There are too many questions unanswered.

Some of these questions are as follows:

1. Because nearly all of the water causing Devils Lake flooding comes from runoff and drainage, I want you to identify these acres accurately so that you can shut off the drains that are causing most of the flooding.
2. If an outlet from Devils Lake becomes reality, how will you compensate people along the Sheyenne for the damages they suffer? Some of these damages would be:

    A. Cities and towns having to change filtering systems and treatment plants to handle the water contaminated by Devils Lake water.
    B. Fish and wildlife losses because of water contamination.
    C. Increased bank erosion due to additional water, especially during the summer when high water will increase erosion.
    D. Wells that can't be used.
    E. Farmers' fences destroyed by high water.
    F. Pastures lost because of fences being destroyed.
    G. Loss of livestock from drowning because of additional water.

These are just a few examples of problems that will be caused by drainage from Devils Lake into the Sheyenne River.
Who will determine the price tag for each of these losses?
Will the Corps handle each situation involving loss, will the State of North Dakota be responsible, or will these losses be ignored?
When the damages caused by a drainage project such as this are totaled will you still proceed with an outlet and sacrifice those that live along the Sheyenne and Red rivers all the way from Devils Lake to Canada?
Please determine the answers to these questions and consider them in your decision-making process.

Testimony to: U.S. Army Corps of Engineers Supplemental Public Scoping Meeting
Valley City, ND --- April 4, 2001

An Alternative to the Proposed Devils Lake Outlet to the Sheyenne: UPPER BASIN STORAGE

Instead of building an outlet from Devils Lake to the Sheyenne River, this alternative would use outlet construction moneys to provide storage for water in the upper basin. Funds would be used to buy drained wetlands, close the drains that were built on them, and use those areas to store water that would have flowed into Devils Lake. Efforts would be made to buy suitable drained wetlands from willing sellers. If necessary, condemnation procedures would be used to purchase such areas at fair market value.

The U.S. Army Corps of Engineers Outlet Plan estimates the proposed outlet will now cost over $100 million to build, and over $1.3 million to operate. An article in the *Washington Post* of Sept. 11, 2000, pegs the cost at $110 million. Including cost overruns and the need to mitigate downstream damage, the final figure will likely be much higher. One example of downstream damage is the Valley City water supply. Valley City will either have to modify its water treatment plant (at an estimated cost of $10 million) or build a supply line from the Spiritwood aquifer, an estimated $10 million project. [These costs should be considered when the benefit/cost ratio of an outlet is computed, as should other downstream damages.]

But $100 million will buy about 200,000 acres of drained wetlands at $500 per acre. At an average depth of 1.74 feet, 200,000 acres will store about 340,000 acre/feet of water in the first year of operation. A 1983 study by A.P. Ludden, D.L. Frink, and D.H. Johnson found that the average depth of water in a restored wetland would be 1.74 feet. Ludden *et al.* also found that a restored wetland would have an average evapotranspiration and evaporation rate of 29.9 inches from May to October. That means that 200,000 acres should be able to store about as much water every year. (It may be something less than that to the extent that the deepest part of the restored wetland exceeds 29.9 inches.)

The annual operating cost would be saved and could be used to pay taxes (or in lieu of taxes) on the 200,000 acres, to manage the areas, or to buy additional acres to store more water.

This plan would go a long way toward managing water in the Upper Basin of Devils Lake. Annual storage would be about equal to the annual inflows from the Upper Basin into Devils Lake the past seven or eight years.

This alternative would keep more water out of Devils Lake than any of the proposed outlets could remove from Devils Lake. It would be implemented for the same cost as the proposed outlet, about $100 million. It would avoid all the damages to the Sheyenne River (flooding, bank erosion, and poor water quality), and appears to be a much better long-term investment than the proposed outlet.

Submitted by: Henrik Voldal
3417 Old 10
Valley City, ND 58072
(701) 845-4303

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

COMMENT FORM: The purpose of these meetings is to identify any new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement. Any new issues can be identified on this form and mailed to the Corps at the following address by 20 April 2001. Email responses are also acceptable.

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

Will the additional flows impact Valley City's efforts to reduce the floodway and/or floodplain with respects to the 5-foot raise project? Will the additional flows impact negatively the benefits gained by VC from the 5-foot raise project? Will flood insurance rates increase in VC?

Social Impacts of the Proposed Emergency Outlet to Control Flooding at Devils Lake, North Dakota: An Assessment of Environmental Justice

U.S. Environmental Protection Agency, Region 8
Environmental Justice Program
February 23, 2000

Title

information on poverty levels obtained from U.S. Census data, communities west and southwest of Devils Lake and the downstream community are determined to be potential environmental justice communities. In addition, as a federally recognized Tribe, the Spirit Lake Sioux Nation is also determined to be a potential environmental justice community.

Data from this study indicate that areas west and southwest of Devils Lake, Spirit Lake Nation, and the 5-mile buffer on either side of the Sheyenne River between Cooperstown and Fort Ransom are potential environmental justice communities. U.S. Census data indicate that these communities range from 15% to over 200% above the state levels for those living in poverty. In addition, Spirit Lake Nation is a federally recognized Tribe, and as such, is included under the Executive Order on Environmental Justice. The proposed Emergency Outlet would have potentially disproportionate impacts on communities west and southwest of Devils Lake, to the Fort Totten Reservation, and to the downstream community.

Read Title on 1st page

- We recommend that the following impacts to communities west and southwest of Devils Lake, and to Spirit Lake Nation be carefully considered as disproportionate impacts to potential environmental justice communities and be included in the NEPA decision-making process:
  - destruction of property from outlet construction;
  - decrease in property values;
  - noise pollution from outlet operation;
  - impacts on cultural resources; and
  - impacts on community and spiritual values.
- We recommend that the following impacts to the downstream community be fully considered as disproportionate environmental impacts to a potential environmental justice community, and included in the NEPA decision-making process:
  - the potential for serious flooding during seasonal heavy rains or rapid snowmelt;
  - severe bank erosion;
  - loss of trees and plants;
  - loss of wildlife habitat;
  - lack of access to roads, impacting economic stability for low-income farmers;
  - loss of cropland and pastureland; and
  - negative economic impacts to cattle operations, due to both water quality and quantity.
- It is also recommended that specific scientific data be provided to downstream residents, so that they may accurately assess potential impacts to their communities of the proposed Emergency Outlet. We recommend that definitive information be provided on the impacts of the proposed emergency outlet on the Sheyenne River and on the subsequent impacts to downstream communities.

— Respondents have serious concerns about potential impacts to water quality and water quantity as a result of Devils Lake water channeled from an outlet. In addition, these respondents question the effectiveness of the proposed outlet on the level of Devils Lake if flow rate is slow enough to avoid the Sheyenne River running at capacity year-round. A number of these respondents contend that if flow rates are high enough to impact the lake

level as currently proposed, their communities would be in danger of serious flooding downstream during seasonal heavy rains or rapid snowmelt.

We also offer the following recommendations that are broader in scope, encompassing various communities in the Devils Lake Region, and the Region as a whole:

- We recommend that definitive information on environmental impacts and effectiveness of the proposed outlet on the level of Devils Lake be provided to members of the Spirit Lake Sioux Nation and to all community members in the Devils Lake Region. This includes empirical data specifying the amount of water expected to be removed annually by the proposed Emergency Outlet.

  Respondents in some low-income communities feel that the proposed outlet would reduce lake levels by only a few inches per year. Considered in conjunction with perceived economic, environmental, and other impacts mentioned by low-income communities and federally recognized Tribes, respondents from these groups question whether the benefits of the proposed outlet project would outweigh the numerous costs involved to themselves and their communities. A goal set forth in NEPA is to "preserve important historic, cultural, and natural aspects of our natural heritage."[28] Considerations of impacts to cultural resources on Tribal lands should be included as part of this goal.

- We recommend that the Army Corps provide all potentially affected communities detailed information on logistical and financial management of the proposed outlet, and on compensation and easement rights that would affect private property and Tribal lands impacted by the proposed outlet path, should the outlet be approved. Effective public participation in the NEPA process should include providing information on potential effects and mitigation measures of the proposed project, in consultation with affected communities.

  Some Tribal respondents have expressed concern about construction and management of an outlet that would be located through Tribal lands, indicating that the Spirit Lake Sioux Nation should be full participants in the decision-making process in terms of location, construction, operation, and maintenance of this outlet. In addition, some low-income respondents in the direct path of the proposed pipeline have expressed concern about mitigation measures, including easements required for the pipeline and lack of compensation provided for damage done to property as a result of outlet construction.

- We recommend that definitive information be provided on the impacts of upper basin drainage on the level of Devils Lake.

  The lack of consistent responses from study participants on the impact of upper basin drainage on the flooding at Devils Lake indicates that empirically verifiable information on the affects of drainage needs to be made available to residents in all areas of the Devils Lake Region. As mentioned earlier, this variable is potentially important in assessing impacts of the proposed Emergency Outlet on specific communities. A number of respondents expressed the view that the outlet is unnecessary if upper basin drainage is minimized or discontinued.

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[28] *Environmental Justice: Guidance Under the National Environmental Policy Act.* Council on Environmental Quality. December 10, 1997, pg. 7.

- We recommend that the format and range of scoping meetings be expanded to take into consideration the needs and perspectives of diverse communities so that all participants are provided the opportunity to have their views included as part of the decision-making process.

  A majority of respondents reported during the interviews that either they have not felt heard as a result of the scoping process, or felt heard, but did not feel that their views were acted upon. These findings bring into question the effectiveness of the scoping process for environmental justice communities in the Devils Lake area. Since the proposed paths of the Emergency Outlet are routed through low-income and Tribal communities, findings from this study point to a need for more focused outreach, considering different types of involvement for different populations.

- We also recommend that before scoping meetings are held, focused outreach efforts of the Corps of Engineers should include making assessments of the cultural values, character, and needs of each community.

  Meetings and presentations should be specifically geared to address the concerns of diverse communities, collecting valuable input from residents and members, and providing information specific to their respective needs. CEQ guidelines for NEPA direct agencies to "acknowledge and seek to overcome linguistic, cultural, institutional, geographic, and other barriers to meaningful participation, and should incorporate active outreach to affected groups."[29] In some cases, it may be beneficial to utilize non-technical persons to make presentations -- individuals who have familiarity with a specific community, such as a Tribal community, and who understand the traditions of those communities and the values they hold. Cultural sensitivity and inclusiveness should be an integral component of the information sharing process.

It is the recommendation of EPA that in line with the requirements of Executive Order #12898 on Environmental Justice, these potential implications to low-income communities and the Spirit Lake Sioux Nation be carefully and thoroughly considered as part of the NEPA decision-making process for the proposed Emergency Outlet at Devils Lake. The recommendations offered above would support the consideration of environmental justice in decision-making about water management in the Devils Lake Region.

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[29] *Environmental Justice: Guidance Under the National Environmental Policy Act. Council on Environmental Quality.* December 10, 1997, p. 9.

No Date-Beach

John M. Beach
RR 2 box 121
Hillsboro, Nd 58045-9425
April 15, 2001

District Eng. St. Paul District
U.S. Army Corps of Engineers
Attn: PM-E (Anfang)
190 5th St. East
St. Paul, MN 55101-1638

Re: An open channel at Twin Lakes for Devil's Lake outlet

Dear Mr. Anfang,

This letter describes the advantages of using an open channel at the Twin Lakes over a pumping plan at the Twin Lakes or the Peterson Coulee. This open channel can be used year around. Winter is the best time with no sudden changes. An open channel can look very natural when done, will be no cost to run, and no noise. When done it could act as an outlet or an inlet. The material dug could build a maintenance road and diversion channel. If an aquifer is opened, it could relieve pressure on Devil's Lake. Other channels have been running for 10,000 years so could this. If there is any advantage in having rocks, six miles of the proposed channel goes through Rock Township. An aquifer would furnish spring water for farmers use and good water downstream. The land that would be used for the proposed open channel is unlike the land used for interstate 29; the Twin Lake outlet land is almost worthless. No one would have to move as this land is already a channel but needs deepening. Very few structures are needed to get the water flowing. Very little expense to operate. Engineering would be quite simple. The old channel would tell you where and a laser would tell you how deep. To start, El. 1445 would start the water flowing, then deepen later. If this channel was dug and natural overflow seemed close, then it could be opened when the problem arose. When the channel is complete, then the Sheyenne River could be diverted into Devil's Lake and be used as a holding pond until the river went down in the valley. The water at Baldhill Dam could be lowered more because there is always more in Devil's Lake to fill it up again. A river of fresh water would be flowing instead of stagnent water.

If this had been done earlier, it could have saved Stump Lake from filling. Millions of dollars would not have had to be spent. An Eight million dollar road from Graham's Island to Minnewaukan could have been saved. How many Millions do we stand to lose in the future if we don't get started?

Sincerely,

John M. Beach

National Audubon Society

1901 Pennsylvania Avenue, NW
Suite 1100
Washington, DC 20006-3405
(202) 861-2242
(202) 861-4290 *fax*

April 16, 2001

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 - 5th Street East
St. Paul, MN 55101-1638

Re: Devils Lake Study, Scoping Comments

Dear Sir:

Representatives of the National Audubon Society attended scoping meetings that you held in North Dakota the first week of April. In response to the Corps of Engineers ("COE") request for public input to the scoping of this important study/EIS process, we request that the following comments be included in the record and be given consideration as this study is carried out under the regulations of the National Environmental Policy Act.

1. An overarching consideration for this study/EIS must be the ultimate adoption of a combination of measures for management of Devil Lake water that protect improvements and transportation routes and that also meet a rigorous test of economic feasibility, while protecting and, where possible, restoring natural resource values.

2. The purpose of the study/EIS decision process appears primarily focused on constructing a man-made outlet at great expense and potential impacts downstream. Sound fiscal and resource management policy dictates, however, that such construction alternatives be considered only after exhausting all in-basin measures to manage the water and protect improvements.

3. It is a generally accepted fact that agricultural practices resulting in the drainage of some 200,000 to 300,000 acres of basin wetlands has greatly increased basin water yield by reducing in-basin detention, evaporation and subsurface storage. This historic hydrographic modification of the Devils Lake Basin has been a major contributor to the current increase in the lake level. The COE analysis should begin with an accurate picture of the extent and affect of these modifications. Reversing these modifications would constitute a technologically feasible alternative worthy of full consideration.

4. The stated study assumption (April 4th scoping meeting) of an ensuing 15-year wet cycle, rather than the normal climate pattern, is a departure from accepted practice in hydrologic analysis and will unrealistically skew the results.

5. We have serious concern that continuation of the practice of wetland drainage could easily offset any flood benefits derived from a selected project alternative. As soon as the federally funded project is in place, it will be a return to the old drainage practices that have greatly exacerbated the present situation. This, of course, would result in needless expense and further degradation of natural resources of the Devils Lake Basin, as well as other basins that might be the unhappy recipients of the "excess water". The State of North Dakota has not been inclined to enact or enforce strict measures to prevent that from happening. To the best of our knowledge, North Dakota has no statutory authority in place to halt or reverse such damaging land modification practices.

6. Regarding the unconstrained outlet scenarios that are contemplated by the COE, your analysis must consider how the added Devils Lake water would compound natural flows in the Sheyenne and Red Rivers that would be experiencing the same, artificially assumed wet climate cycle.

7. We know that sustained bank-full discharge serves as the dominant channel forming influence on any stream channel. It is logical to anticipate that a substantial increase in the dominant flows that would result from a constructed outlet drastically change the natural morphology of these rivers. There would be many resulting impacts to property and improvements along those rivers as well as to the riverine habitat. We trust that those changes will be modeled, forecasted and resultant impacts described in great detail. Those individuals that have an interest in these rivers and their zones of influence, including our organization have a right to know what impacts to anticipate. Property owners deserve compensation for any damage which will occur.

8. We support the COE's study assumption of a base condition that there would be no down cutting of the natural outlet, under all scenarios. Likewise, we expect that the no-action alternative (required by NEPA) would assume that and other protection measures that would be put in place if a project were not constructed. The no-action alternative should also be based on a normal climate pattern, as mentioned above. We urge the COE to avoid any actions that would contribute to the scare tactics that are being advanced by some proponents of a large, federally subsidized project.

9. We share the serious concerns of Canada and Minnesota as to the potential impacts on the Red River and Lake Winnipeg Basins by the introduction of presently known and unknown forms of biota from Devils Lake. Any alternatives that involve trans-basin disposal of water must include effective measures for total biota containment. Such measures must meet the satisfaction of the EPA, and the governments of Minnesota, Manitoba and Canada. The costs of such containment, including the present value of related operation and maintenance costs, must be factored into the determination of economic feasibility.

10. Among the many possibilities for in-basin water management measures, we urge consideration of the fee purchase of flooded property around the lake, which would be managed in perpetuity as a green belt for recreation purposes, wildlife habitat and possibly lease-back to farm operators during periods of low lake levels.

11. We request that the scope of study (impacts) incorporate the entire Sheyenne River Basin and the Red River Basin (North Dakota and Minnesota), including the Lake Winnipeg Basin.

12. We were surprised and disappointed to learn that the COE plans to initiate design of an apparently pre-determined preferred alternative well before the DEIS is completed. Is pre-selecting the preferred alternative consistent with NEPA regulations? Our concern is that the COE will come under great pressure from proponents to "use the design the taxpayers have paid for," in spite of study findings. The characterization of this project as an emergency action is most curious in view of the fact that the wet cycle and rising lake level has been occurring for some 9 years. We are most adamant in our insistence that the COE employ good science and thorough analysis in considering all reasonable alternatives to an equivalent level of detail.

We have two additional concerns for which we request a specific response from you office. First, the COE should be aware of and consider that the Dakota Water Resources Act requires the evaluation of water supply alternatives, including a transbasin diversion of water from the Missouri to the Red River. The Bureau of Reclamation and their state study partners are just beginning the studies called for in this Act. They have yet to issue the Notice of Intent as required by NEPA.

The compounding impacts of transporting water from the separate Missouri and Devils Lake Basins to the Red River Basin would be numerous and complex. Generally, these likely impacts would be the result of adding large quantities of foreign waters to the Sheyenne and Red River Basins, from changes in water quality, and from the introduction of exotic biota from two basins. In addition, BOR and the state are considering initiation of a system-wide cumulative affects EIS for completion of the Garrison Diversion Unit.

We are aware that NEPA regulations require close coordination of multiple, concurrent assessments, combining those assessments wherever possible and for the assessment of foreseeable consequences and cumulative impacts of multiple projects. In addition, the concerned publics will be greatly disadvantaged in having to react to two and maybe three concurrent NEPA processes, conducted by two lead federal agencies, that are in various stages of completion. We strongly urge the COE consider combining these two or three concurrent EIS projects under one analysis and one lead federal agency. Doing so would greatly facilitate a coordinated and comprehensive analysis of the impacts of the multiple but related actions and enable the public meaningful participation in the process. Please provide a specific response to this request as soon as practicable.

Secondly, we have been informed that the draft EIS and related studies that were done using public funds at the direction of PL 105-18 (June 1997) will not be made available to the public. We believe strongly that the results of that earlier analysis have a direct bearing on the current

NEPA process and are essential background information for the public benefit. By its very intent and design, NEPA is a public decision-making process and it is highly improper for studies that have been performed using public funds and as a NEPA process be withheld. The COE must realize that there is growing public suspicion as to the motives for withholding these documents.

We would appreciate you sending us copies of all related products and information produced by those studies and making them available to the rest of the stakeholders as soon as possible. Please let us know how you intend to treat this request.

We appreciate this opportunity to comment and look forward to a reply to the questions we have posed.

Sincerely,

Daniel P. Beard
Chief Operating Officer

cc: Regional Director, Bureau of Reclamation
Great Plains Region
P.O. Box 36900
Billings, MT 59107-6900

District of Engineers St Paul Division
St Paul Mn.

To Whom it may Concern:

And believe me it Concerns me too! This subject has been discussed many times in the Valley City and other areas. The subject "Devils Lake Water": A long time employee of of "Wet Lands" testified at a Valley City, meeting at the Eagles Club that the drainage going into the lake is probably the primary cause of too much water. Granted the farmers in that area paid for drain ditches and cause to the lake and feel it is there perogative. But since it is ongoing - water going in - Why not Shut off the drains. Does it make sense to keep the water flowing in and spend millions to drain it out on the opposite side? I think not. It should be one of your primary considerations. The banks of the Sheyenne are fragile.

evidence is easily seen from the roadways along the river between Valley City and Kathryn. Floods have eroded these fragile banks and tall trees are undermined and fall into the river - plus much other brush and debris. Not to mention Valley City takes water from the Sheyenne for our water supply. The expense of a new treatment plant would be tremendous. Valley City wouldn't be the only losers. This will affect the whole valley and on into the Red as well.

Please use Common Sense when pondering and arriving at any and all decisions.

Yours truly,
Lela Bemis
Valley City, N.D.

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

COMMENT FORM: The purpose of these meetings is to identify any new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement. Any new issues can be identified on this form and mailed to the Corps at the following address by 20 April 2001. Email responses are also acceptable.

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

See attached letter and clippings.

Please add my name to the mailing list, if my name is not on it.

Leo Bittner
305 Dickinson Dr.
Devils Lake, ND 58301-3457

April 16, 2001

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

Dear Sir:

In regard to the outlet for Devils Lake, ND, I am all for an east-end outlet, but I am opposed to a west-end outlet because that would ruin the lake by taking the fresh water off the west end. I think your cost benefit ratio is gravely flawed by not considering what has already been done--roads, bridges, dikes, etc. You admit now that if you could have seen what the lake would do by the year 2000, that your cost benefit ratio would have looked much different.

The people in this area are suffering dramatically with low prices of farm commodities. The whole agricultural scene is suffering and this area does not need the additional stress and worry of the swollen lake. With no immediate fix or outlet in sight, the people have the additional stress of their homes, basements, roads, land etc. being overtaken by the lake. With all the money that has been spent in this area, we could have had an outlet, inlet, and water purifier.

The biota issue is also flawed because that has all been transferred many times already. According to your map, you have the Mauvais Coulee, on the north end of Rock Lake, ND, running south, which it does NOT, it runs north into Pelican Lake in Manitoba, Canada. There is an elevation break in Rock Lake, ND, where on the south end it runs south and on the north end it runs north, so any biota has been transferred back and forth many times because that water runs into the Pembina River.

It is time to take your head out of the sand. We are just one big rain or snow away from a huge disaster. This lake has been studied since the late 1800's and it is time to make an outlet on the east end. By putting a dam on the Sheyenne River, you could run water into the west end of Devils Lake and use it for flood control. If common sense were to prevail, Devils Lake could be a regional fishing and recreation area, rather than a source of controversy and disaster.

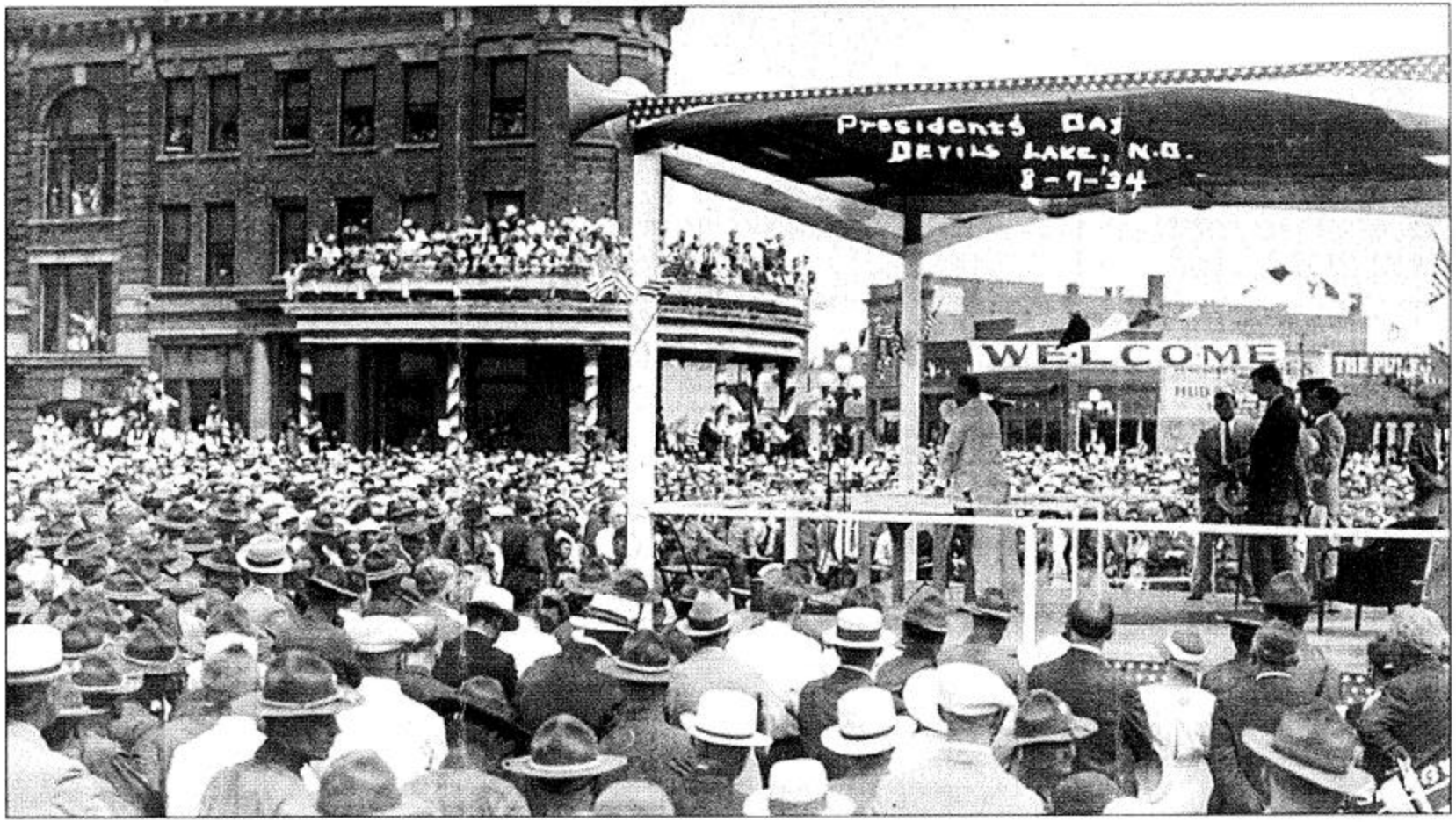
Thank you.

Sincerely,

Leo F. Bittner

Leo F. Bittner
305 Dickinson Dr.
Devils Lake, ND 58301

DAYS TO REMEMBER



Bernard Deplazes, Devils Lake, submits this Aug. 7, 1934, photo taken when Franklin Roosevelt came to the city of Devils Lake. Deplazes says Roosevelt came to town that President's Day telling how he was going to put water from the Missouri River into Devils Lake. That was pre-Garrison Dam days. "I was there and heard that speech," Deplazes says. "It was particularly dry at that time." It only took a half-hour to drive around the lake and people were planting potatoes on the lake bottom. Quite a different problem from what faces the lake region today.

If you have a Days to Remember picture you'd like to share, send it to Days to Remember, Grand Forks Herald, Box 6008, Grand Forks, N.D. 58206-6008. Please include a daytime telephone number. Your picture will be returned.

No Date-Bittner
(Pg. 3)

~~No Date-Bittner~~
(Pg. 4)

FLOODING

Rising lake could stop rail service in its tracks

▪ Railroad: Lake levels threaten Amtrak to Grand Forks and Devils Lake

By Ryan Bakken
Herald Staff Writer

CHURCHS FERRY, N.D. — Amtrak service to Grand Forks and Devils Lake is threatened by a stretch of low-lying railroad tracks near here.

If the level of Devils Lake rises about 3½ more feet, Burlington Northern and Santa Fe Railway would shut down the 14-mile stretch rather than pay the cost of making it operational.

So says a position paper by the railroad company.

"BNSF's position should be that we are, from a freight business perspective, content with allowing the water to overtake the track structure because our business on that line does not justify the expense of raising the track structure," the paper says.

The line not only handles freight for BNSF, but also the Amtrak Empire Builder traffic between Minot and Grand Forks. In 2000, Grand Forks handled 13,100 passengers, Devils Lake 4,236 passengers and Rugby 4,799. If the line was shut down, Amtrak service would have to be rerouted from Fargo to Minot.

"This would be another blow to our community if it would happen," Ramsey County Commissioner Joe Belford said. "It would

RAIL: See Page 5A

RAIL/

Continued from Page 1A

be another thing we're losing."

High water

The level of Devils Lake is now 1,446.2 feet. The National Weather Service has forecast that the lake has a 50 percent chance of reaching 1,448.2 feet this year. And it says there's a 10 percent chance of it going up to 1,449.6 feet.

At 1,449.6 feet, BNSF says, the track would need to be raised to stay operational. The low point of the 14-mile stretch is 1,453 feet. The railroad requires four feet between the lake level and the top of rail elevation.

Raising the track 3 feet, in 1-foot increments, would cost $2 million, BNSF said. An 8-foot raise would cost $8 million, and a 13-foot raise would cost $16 million, according to its estimates.

BNSF hinted that the state and federal governments should pay for any needed track raises.

"It's up to federal and state governments to address the Amtrak service issue," the document said. "If Amtrak is to remain on its present route, federal and state funding should be provided to cover the entire cost of raising the track structure."

And, if Amtrak uses its track from Fargo to Minot, "federal and state funding should be provided to mitigate impact to BNSF's freight operation."

BNSF said it still would be able to serve its freight customers if the 14-mile stretch is closed. It would use local service from Grand Forks west and from Minot east to the point where the track would be taken out of service.

"The state of North Dakota has already shown a willingness to expend funding to alleviate the problems caused by the rising lake condition," the position paper said. "There is no economic reason for BNSF to invest in this line because we can fully serve our freight customers by other means."

Belford said he is organizing a meeting in Devils Lake on April 30 involving BNSF, Amtrak, state and local officials.

WATERS OF DEVILS LAKE

The "Enchanted Waters" so called by this area's first discoverers and later called Devils Lake, the great inland lake, was one of the great attractions to the first settlers of the Lake Region, for man, beast, and crops must all have water. As early as the early 1880's it was noted that the lake was going dry. One of these persons was Captain Edward E. Heerman who had gambled his life's fortune on the inland lake to operate a shipping line on its waters. There was great concern that surely there must be a way to bring in fresh waters from other areas.

November 12, 1889 Monday (Grand Forks Herlad): — On this date an Irrigation Convention meeting was held at Grand Forks and a resolution adopted asking Congress "to consider the possibility of a canal and for a survey by the United States government for the double purpose of irrigation and navigation, beginning at some suitable point on the upper waters of the Missouri River, and extending then in a generally easterly direction to Devils Lake and the Red River, to the upper waters of the Mississippi and thence to Lake Superior." Capt. Heerman was one who attended this meeting.

The big push came in 1924 when the Missouri River Diversion Association was formed at a joint meeting of the Devils Lake Rotary and Kiwanis clubs met September 11 and Sivert W. Thompson was named its first president. This young Devils Lake attorney practically gave his life to working for the project. Although much work has been done and much remains to be done to bring Missouri River water to Devils Lake, Sivert Thompson died in 1963 without seeing the project completed.

April 24, 1929 — Devils Lake World: — "A report of the State Engineering department activities relative to the Missouri River diversion is contained in the thirteenth biennial report of Robert E. Kennedy, state engineer, which was made to Governor Walter Maddock, September 30, 1928, and which has just been distributed throughout the state. —

The studies have been going on for 112 years. Isn't it time to make a decision? We need stabilization and that would also work for flood control on the Sheyenne River.

041801-Bloomgren, Minnesota
Department of Health

MINNESOTA
MDH
DEPARTMENT OF HEALTH

Protecting, maintaining and improving the health of all Minnesotans

April 18, 2001

U.S. Army Corps of Engineers
Attn: PP-PM-E (Anfang)
190 Fifth Street East
St. Paul, Minnesota 55101-1638

Gentlemen/Ladies:

The Minnesota Department of Health would like to offer the following comments in regard to identification of new issues associated with the Devils Lake Study. Our comments are concerned with downstream water quality and impacts on downstream users/water supply.

The report entitled "Downstream Surface Water Users Study" prepared by Barr Engineering in March 1999 did not include the city of East Grand Forks. The report noted the city did not draw its water from the Red River of the north and thus was excluded from consideration of potential impacts. Since that time, the city of East Grand Forks has been seriously exploring an intake on the Red River to supplement their existing intake on the Red Lake River and allow for flexibility and additional emergency options. Given the limited availability of groundwater resources in the region, we believe serious consideration must be given to this contingency.

For these reasons, we are requesting that the scope of the study be expanded to include an analysis of potential impacts that changes in water quality will have on the municipal water treatment facility for the city of East Grand Forks. The analysis should be done for both the "300-cfs constrained outlet" option and the "480-cfs unconstrained outlet" option described in your March 2001 Devils Lake Study Newsletter.

We appreciate the opportunity to provide comments on this important public health issue. If you have any comments or questions, please contact Beth Kluthe, planner, Bemidji District Office, at (218) 755-4173 of my staff.

Sincerely,

Patricia A. Bloomgren

Patricia A. Bloomgren, Director
Environmental Health Division
P.O. Box 64975
St. Paul, Minnesota 55164-0975

PAB:BSK:tvw

-Original Message-----
From: Doug L. Boknecht [mailto:83bokd@state.nd.us]
Sent: Wednesday, April 04, 2001 10:24 AM
To: Anfang, Robert A
Subject: Devils Lake Basin Scoping Meeting Comments

I am a clinical social worker with 26 years of experience, including that I was the emergency services coordinator for the Lake Region Human Service Center for most of the past 10 years, and the Program Coordinator for a number of ISG and RSG crisis counselor programs our Agency has managed since 1997. With that perspective, I have several comments that the Corp may want to consider surrounding key issues.

In the 1999 scoping document, I did not see much consideration given to the health and mental health impacts associated with mitigating the present and future impact of this unusual if not unique flooding event. I was pleased to see a number of the revisions in the Corp's study methodologies, including that impact of uncontrolled discharge at or above 1459' ASL is being considered (since at least 40% of N.D. residents live downstream of the lake [could be more with revised census #'s]), and also that the flood prediction formulas are being broadened in recognition that this event does not fit well with riverene flooding prediction formulas. That is to say, looking at a 50 year average is misleading, given that some opinions suggest that this flood is more likely on a 1000 year cycle.

While my expertise is on mental health, I have just one comment on the broader health impacts. Our crisis counselors were finding large numbers of families, including some very elderly people, living in situations were they were experiencing chronic wet basements, both from overland flooding and from increased hydrostatic pressure, some of these up to 90 miles away from the actual lake inundation. The resultant reoccurring mold and mildew was taking it's toll with increased respiratory problems and exacerbation of other preexisting health conditions. If the lake continues to rise, this hydrostatic pressure will likely make this concern worse and more wide spread. With the additional consideration of trying to store more water in the upper basin, I would recommend that the Corp consider the possible impacts on hydrostatic pressure and ground saturation, and the risks of exacerbation of health concerns.

I suspect that this flood event has some of the more challenging response decisions that the Corp has ever had to deal with, and in that sense, you are in somewhat of a "no win" situation. Crisis theory differentiates between natural v.s. human (man made) disaster victim responses. While on the surface, this flood event would appear to clearly be a natural disaster, there are some elements that could reframe people's perceptions and lead to the increased anger and blaming responses that are more typically associated with man made disasters. I have some concern that the Corp is one of the more likely targets of anger if this were to happen.

To clarify, there presently continues to be resistance to an outlet from some of the downstream interests, and even if an outlet does eventually occur, this will likely be some years into the future. I could envision if an uncontrolled discharge and resultant disaster does eventually happen, that some might "forget" about the present barriers, and react by blaming. "Why weren't we warned; ...informed; ...there were years to deal with and prevent this disaster and noting was done, etc."

I realize that the Corp is not in the business of directly addressing health and mental health aspects of the flooding. I have also written numerous quarterly and final reports on the human impact and won't burden you with all of that information, but I do think it might be helpful to paste one particular section from the most recent final report as we closed

out our last RSG on the crisis counselor program, that related to suicide statistics.

In a recent (September, 2000) publication on Suicide in North Dakota, this was the second leading cause of death for N.D.'s children ages 10 - 14, for children 15 - 19, and for ages 20 - 24. *In looking at a 10 year graph comparing N.D. to the national average, there is a clear increase where N.D. exceeds that average (age adjusted - all ages) every year since 1993, while generally falling at or below the national average in prior years. The national average for suicide deaths ages 10 - 14 is a rate of 1.6, while in N.D. it is 6.1.

North Dakota presently ranks second in the nation for completed suicides for ages 10 - 14, and sixth in the nation for ages 15 - 19. Region III in suicide deaths per 100.000 population, exceeds the rates for any other region in the State. Suicide deaths on Turtle Mountain are even higher, and those on Spirit Lake Nation are about 3.5 times the rate of any other geographical area in the state. The increase in suicide in the Lake Region almost certainly contributes to the overall completion rate increase of the state, and youth are at highest risk, particularly on Spirit Lake Nation.

While it may be difficult to put an economic impact number to suicide completions in the sense of "what is a human life worth", there are some mental health professionals who believe that the flood has played a role in these increased numbers. In 1997, a national team of suicide experts was brought in to one of our local areas to look at the underlying dynamics of a child and adolescent suicide cluster that was occurring at the time, and that team did conclude that the flood was one of the principal contributors to the exacerbation of preexisting conditions that led to the suicide completions.

One of the observations I noted from attending the April 3rd scoping meeting in Devils Lake, is that the majority of attendees seemed to favor an east end outlet, although some strong points were made about why this would not be a sellable alternative to downstream communities because of the water quality. I was impressed with the expertise and demeanor of your water quality expert, but concluded that his job will be challenging. I could envision some scenarios where, if the people in the basin conclude that a west end outlet will destroy the fishing, recreation and tourism industry in the region, that they might actually reject the outlet proposal. The economic impact of years of flooding along with a co-occuring farm crisis have taken a toll on the economy of the lake region. Second only to agriculture, the recreation and tourism industry is the major economic engine keeping the economy afloat. It the west end outlet threatens this, I believe local people and decision makers may conclude that they are in a "no win" situation, and actually could reject the proposal (just my opinion).

One of the reasons that I am particularly supportive of an outlet is that, while there may be concerns about whether this will be built in time to be able to make a difference, it would led a much increased sense of control for local people over this disaster. As you may know, when people are under chronic or high stress, one of the mitigating factors that can increase resiliency is a sense of control, and thus would make my job in the mental health field easier. Too, as a North Dakotan who is concerned about the increasing risks for people downstream to disaster exposure, including at a possible catastrophic event level, anything that can prevent or reduce impact is much to be desired.

I wish your team well in this very complicated and challenging assessment process. Thank you for consideration of these comments.

Douglas Boknecht, LICSW, BCD
% Lake Region Human Service Center
200 Hwy 2 SW
Devils Lake, N.D. 58301
(701) 665-2200

Minnesota Department of Natural Resources

500 Lafayette Road
St. Paul, Minnesota 55155-4010

April 20, 2001

Mr. Dave Loss
St. Paul District-Corps of Engineers
190 East Fifth Street
St. Paul, Minnesota 55101

RE: Scoping Issues: Devils Lake Outlet Project Environmental Impact Statement

Dear Mr. Loss:

The Minnesota Department of Natural Resources (MDNR) has reviewed the list of scoping issues provided at the recently conducted series of scoping meetings and we offer the following comments for your consideration.

Division of the Biota Transfer Topic into Two Issues

The final Scoping Document on the Emergency Outlet for Devils Lake contains what we believe is an inappropriate and contradictory splitting of the biota transfer issue into the two lists of issues. According to the document, the first list are issues which are key to whether the project will proceed. Biota transfer is mentioned in Issue R, Other States and Nations, in this list. The second list is described as a group of issues that perhaps could be mitigated but which are not identified as key to whether to proceed with the project. Biota transfer is mentioned in Item F, Downstream Aquatic Resources.

While it is important to us that the issue is included in the EIS and that the analysis proceeds according to the scope of work we have previously provided, we are concerned that the implication of listing the downstream aquatic effects of an adverse biota transfer in the "Other Issues" list means that those adverse impacts would not be considered in a record of decision recommendation of whether or not to proceed with the project.

If movement of problematic biota into the Red River basin as a result of the operation of the outlet was to occur, this could have significant economic, ecological, and natural resource impacts, including cumulative impacts. Appearance of such biota in Devils Lake during project operation should result in the project being shut down, unless conditions of an imminent natural runout existed. Therefore, the potential for that event to occur should be factored in to the decision to build the project. In addition, effects on existing aquatic environments from transfer of problematic biota are related to the finding of compliance with the Boundary Waters Treaty.

So it is difficult for us to understand how the biota transfer issue could be a "key issue" in the one case but not in the other.

In examining the record related to the risk of biota transfer from this project, there are many conclusions in North Dakota documents that state that there is little or no risk of adverse biota transfers from the project. But it is apparent in this record that too much has been made of the fact that Devils Lake is technically within the Red River Basin watershed.

The phenomena of human-induced changes in species distribution since European settlement, and what threats exist *now* is of much greater importance in determining risk of adverse biota transfer than how many times there was spillover prior to recorded history. Biota of concern include invasive and damaging animals, plants, parasites, and pathogens, many of which are non-native to North America, or not native to these watersheds. These elements are all post-settlement introductions occurring since the last connection between these bodies of water. Furthermore, Minnesota and the federal government have programs and laws that are specifically attempting to control and prevent the spread of these species, to reduce impacts, and to assess the impacts from increased connectivity of projects such as this. This is of high economic and natural resource significance.

Furthermore, we do not believe that adequate information is available prior to the impact assessment to determine whether any particular issue would be key to whether the project should proceed. Therefore, we believe the separating of the issue list into two is premature. However, given the present distinction and the prominence of the biota transfer topic, MDNR strongly believes it belongs in the first list. At this time there is no basis for the distinction that impact assessment on this topic should be separated from such jurisdictional and "legal" issues as compliance with the Treaty or other unnamed issues of interest to Minnesota.

Expansion of the Macroinvertebrate Study

We understand that the COE proposes to do the macroinvertebrate study only in the Sheyenne River and in Devils Lake. There is entirely good justification that the study should also be done in the Red River. We have previously commented on the need to include the Red River itself in this analysis.

Our February 26, 2001 submittal to you on biota transfer noted that we expected the EIS to take into account the 5 inter-related components that comprise river systems. (See section A, page 1.) In that section, we cited *Preliminary Assessment of the Environmental Effects with International Implications of a Transfer of Water to the Hudson Bay Drainage*, (Especially Appendix 2) by the Devils Lake Working Group of the Garrison Joint Technical Committee, 1997. To date, this is the only report that has examined environmental impacts of the outlet. A major finding of the report was that *water quality of the Red River could be adversely impacted all the way to the*

Canadian border from the outlet. Our earlier comments on this topic also related water quality changes to the biota transfer issue, in that we need to understand effects that might cause changes in the Red River aquatic habitats and change the status of the Sheyenne River pathway for biota movement (e.g., improved habitats for problematic biota.)

In the discussions during the earlier scoping process, a key issue was that the higher flow amounts were regarded as having clear adverse impacts on downstream water quality. Since the COE is now considering running the outlet as much as seven months of the year at a rate of 480 cfs, the opportunity for adverse downstream water quality effects on the mainstem Red River are even greater. Therefore, the macroinvertebrate study must include an evaluation of effects on the Red River. The same protocol agreed to for the Sheyenne River should be used on four locations on the Red River: the reach of Red above the mouth of the Sheyenne, the reach between the Sheyenne and Fargo, the reach between Fargo and Grand Forks, and the reach between Grand Forks and the international border.

Thank you for the opportunity to provide our comments on this important project. We would welcome the opportunity to discuss these issues further with you so that we may answer any questions you may have and clarify the points we have made in this letter. Please contact me regarding such a meeting.

Sincerely,

Donald W. Buckhout

Donald Buckhout
MDNR Technical Team Representative
Environmental Policy and Review Section

c: Kent Lokkesmoe
Paul Swenson
Paul Stolen
Con Christianson
Lee Pfanmuller
Larry Kramka
Steve Colvin
Ron Payer
Gale Mayer
Henry Drewes

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

COMMENT FORM: The purpose of these meetings is to identify any new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement. Any new issues can be identified on this form and mailed to the Corps at the following address by 20 April 2001. Email responses are also acceptable.

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

Please consider Arden Hermon's plan. The only outlet that makes sense is the original. Clean it out and gate it. Also gate the Stump Lake outlet into Tolna coulee. I don't think the basin has that much to worry about as far as water quality. The lower Sheyenne has a vast opportunity to temporarily store runoff water in dry dams if we had some cost share money to construct them. If you have a map of the Devils Lake basin please send me one. Thank you

Nyle K. Burchill, 835 8th Ave NW, Valley City

Nyle & Arlene Burchill
835 8th Ave. NW
Valley City ND 58072

Douglas A. Goulding
Attorney-at-Law
P.O. Box 687
Devils Lake, North Dakota 58301

701-662-3838
Licensed to practice law in Colorado and North Dakota

April 11, 2001

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

Re: **Devils Lake Emergency Outlet - Supplemental Scoping**

Dear Sir or Madam:

The following comments are offered in response to the Corps' request for comments made as part of the NEPA Supplemental Scoping for the Devils Lake Emergency Outlet Proposal. The views expressed are my own, and do not necessarily reflect the views of any of my clients.

1. Evaluation of reasonable alternatives.

In light of the NEPA requirement that the Corps consider all reasonable alternatives, the Corps should investigate the alternative of a control structure at the natural outlet from Stump Lake to the Sheyenne River system. Such a structure would serve the Corps' stated purpose to reduce the potential for a natural overflow event. While I do not favor this alternative, it is a reasonably foreseeable alternative, especially if the proposed emergency outlet proves legally, environmentally, or economically not feasible. Therefore, the impacts of this alternative should be investigated and reported.

2. Evaluation of impacts.

The Corps' evaluation of impacts involves water quality and water quantity modeling framed by a set of assumptions and constraints. The following comments address modeling, and additional issues to be evaluated.

A. Diking assumption. The Corps assumes that the City of Devils Lake will build a dike to protect the City to a lake level of 1460 ft msl. This appears to be a reasonable course of action, however, I question whether it is reasonable to assume that the City will have the financial resources to undertake any dike raises beyond the three-foot raise scheduled for this summer. Therefore, the assumption that the City of Devils Lake will not incur flood damages is speculative.

B. Water quality standards. The Corps will model outlet operation constrained by downstream water quality standards. Currently, the water quality of the following stream segments and reservoirs does not meet applicable standards: Sheyenne River from Harvey Dam to Tolna Dam, Lake Ashtabula, Sheyenne River from Lake Ashtabula to the Barnes County line, Sheyenne River from near Lisbon to near Davenport, Sheyenne River from near Davenport to its confluence with the Red River, and the Red River from Fargo to the Buffalo River. Therefore, the Corps should identify the extent to which outlet operations are materially constrained by downstream water pollution. Furthermore, are the constraints on outlet operations more stringent or less stringent that would be imposed on a polluter applying for a discharge permit on the Sheyenne River or Red River?

C. TDS constraint. The Corps will apply a 500 mg/l water quality standard constraint to the modeled operations of outlet pumping. North Dakota has no TDS standard on its streams and lakes. Therefore, if the Corps is to use a 500 mg/l TDS standard, the Corps should identify the source of the standard, what water uses the standard is intended to protect, and the scope of the impacts to those uses caused by exceeding the standard.

D. Floodplain management. Floodplain management in the Devils Lake Basin is based on the projection that there is a 2% probability that the lake will reach 1460 ft msl during the next 50 years. Because nationwide floodplain management standards are based on avoiding the impacts of a 100-year flood (1-in-100 probability in any given year), and there is a 1-in-50 probability that Devils Lake will overflow to the Sheyenne and Red, downstream floodplain management must be adjusted to include a Devils Lake flood spill to the Sheyenne. Therefore, when evaluating downstream impacts of the no-action alternative, the Corps should evaluate the impacts of an increase in the magnitude of the 100-year flood and redefinition of the 100-year floodplain for downstream communities.

E. Dike safety. NEPA requires analysis of impacts on the quality of the human environment. Therefore, the Corps should investigate and report on the risk of living in the City of Devils Lake behind the levee protecting the City, and the risk of dike failure.

F. Water users/Water supply. In the Corps handout at the supplemental scoping meetings, the Corps discussed Issue I - water users/water supply. The issue includes the effects on permitted pollutant dischargers. Polluters have no vested right to discharge pollutants to the waters of the United States. In turn, if routing Devils Lake floodwaters to the Sheyenne (which does not meet the statutory definition of discharge of a pollutant) causes changes in Sheyenne and Red River water chemistry, and these changes precipitate changes in effluent limitations, these changes and the costs of wastewater treatment to meet changed limitations cannot be considered legitimate environmental or economic impacts. Therefore, the Corps should not consider impacts on downstream polluters in its analysis.

G. Other states and nations. In the Corps handout at the supplemental scoping meetings, the Corps identified Issue R - other states and nations. The issues raised by the State of Missouri should be addressed in the same manner as the Corps addressed the issue of an inlet to Devils Lake, i.e., "As stated in PL 105-62, this issue is outside the scope of the EIS."

Respectfully submitted,

Douglas A. Goulding

Douglas A. Goulding

Environment Canada Environnement Canada

TRANSBOUNDARY WATERS UNIT
ENVIRONMENT CANADA
Room 300, 2365 Albert Street
REGINA, SK CANADA S4P 4K1
Tel: 306-780-7004 Fax: 306-780-6810

File: #7031-36/268-3

April 20, 2001

Robert Anfang
General Biologist
Programs and Project Management
Environment Section, PM-E
U.S. Army Corps of Engineers
190 - 5th Street East
St. Paul, MN 55101-1638

Dear Mr. Anfang:

Re: DEVILS LAKE OUTLET EIS SCOPING PROCESS

Pursuant to my letter of February 27, 2001 to Mr. David Loss regarding Manitoba's and Canada's participation in the Devils Lake outlet environmental review process, we appreciate this opportunity to provide additional technical comments to your agency to guide the Environmental Impact Statement (EIS) being developed for an artificial outlet from Devils Lake in accordance with the National Environmental Policy Act (NEPA).

As identified in the Corps of Engineers' "Devils Lake Study Newsletter", Issue #4, dated March 2001 and summarized at the public scoping meetings held April 2 - 5, 2001, the present activity is a continuation of work on the EIS that began in 1997 and 1998. In this regard, comments we provided during the previous EIS scoping processes are anticipated to form part of the present record. These comments to Colonel Wonsik in 1997 and Mr Whiting in 1998 are again submitted since many of them remain germane to the present EIS exercise (attached). Additional comments developed by Environment Canada, in consultation with other federal and Manitoba agencies, are listed below.

(1). Economic and environmental problems associated with biota transfer and invasive species introductions are already evident and impacts continue to grow in importance, such that this issue is now one of the top global environmental concerns. This issue was not adequately identified in the Corps' February 1999 Scoping Document. Transfer of aquatic nuisance species (Issue F) was listed in Section 4.2 OTHER ISSUES IDENTIFIED as "...not identified at this time as being

key to the decision whether to proceed with an outlet or not." It is strongly recommended that the biological containment model advanced by the Scientists' Working Group on Biosafety, in their 1998 Edmonds Institute report titled "Manual for Assessing Ecological and Human Health Effects of Genetically Engineered Organisms", be adopted to guide the preparation of the Devils Lake outlet EIS. An ecological approach for the biota transfer issue of the Devils Lake outlet must consider the inter-related components of hydrology, water quality, biology, increased connectivity, and geomorphology.

In addition, the EIS must specifically address, in detail, whether federal action related to an outlet from Devils Lake is in conflict with the 1999 Executive Order on Invasive Species (No. 13112, February 3, 1999) signed by President Clinton. The Executive Order, among other things, specifies in Section 2(a) that federal funds shall not be used to carry out actions that are likely to "cause or promote the introduction or spread of invasive species in the United States or elsewhere". Canada believes the proposed Devils Lake outlet could result in the introduction of "alien species", as defined in the Executive Order, which are "likely to cause economic or environmental harm or harm to human health" within the meaning of Section 1(f) of the Executive Order. This harm could include, but not be limited to, the fishery in Lake Winnipeg, the 10th largest freshwater lake in the world. The lake supports a commercial fishery that contributes over $25 million annually to the Manitoban and Canadian economies as well as being a primary food source for over 23,000 permanent residents, a majority of whom are Aboriginal descent, living along the shore of the lake. The International Joint Commission, in a 1977 report to governments on the transbasin water transfer proposed as part of the Garrison Diversion Unit, stated "In addition to the general ecosystem destabilization that could occur, the population of whitefish, walleye and sauger could be reduced by 50 percent in Lakes Winnipeg and Manitoba." Thus, the potential consequences to Canada from biota transfer by water diversions are enormous. The EIS should clearly indicate how, as required under Section 2(a), federal agencies will "prevent the introduction of invasive species". Because of the international considerations of this Executive Order, the Corps of Engineers will need to coordinate its actions with the State Department.

The EIS should identify biota including genetically distinct populations within the same species, both known to be in Devils Lake and surrounding regions, including the Missouri River, at the present time, their life histories, and identify the physical and biological means by which construction and operation of an artificial outlet could affect their distribution. The EIS should identify the ecological, economic, and natural resources consequences (*e.g.,* ecosystem changes, etc.) should biota be transferred by an artificial outlet from Devils Lake. The EIS should identify if damages are avoidable through selection of other options or alternatives to an artificial outlet, modification of the proposal, or biota containment measures. The biological, engineering, and economic feasibility of containment measures should be detailed in the EIS for operation during the lifetime of an artificial outlet project. The findings should be presented in a manner that provides a comprehensive and

accurate assessment of project benefits, costs, and feasibility; that is, ecological, economic, and natural resource consequences of biota transfer must be presented in such a manner that they can be accurately compared with other costs and benefits of an artificial outlet from Devils Lake.

Although all potential foreign biota in Devils Lake and the surrounding region, including the Missouri River, need to be specifically included in the EIS, additional attention should be focussed on the striped bass and other potential problem biota. Striped bass were stocked in Devils Lake in the late 1970s, are not native to the region, and are not found in the Hudson Bay basin. The North Dakota Game and Fish Department believes that the striped bass have not survived in Devils Lake, however, a large striped bass was caught in 1993. North Dakota Game and Fish had believed, incorrectly, that another introduced species, the European zander, had not survived in nearby Spiritwood Lake. North Dakota Game and Fish Department had stocked European zander in Spiritwood Lake in the late 1980s but since the zander had avoided capture by experimental nets, the fish were believed not to have survived. However, a confirmed European zander was recently captured in Spiritwood Lake, demonstrating that this non-native species had successfully reproduced. Since Spirtwood Lake has overflowed during the last three years, zander may have escaped downstream to the James River environment. Concern remains that remnant populations of striped bass may similarly survive in Devils Lake and may be transferred to the Hudson Bay basin with an artificial outlet. Striped bass grow to a large size, are a very aggressive predator, and could cause serious harm to native populations of fish in the Hudson Bay basin. Also, European zander is now another non-native species located in a nearby basin that could cause harm to the Hudson Bay basin.

(2). The Corps assumes in its documentation that the present wet cycle will continue until Devils Lake overflows, as predicted by the University of North Dakota. To be used, this assumption must be supported by other climatological scientists, especially those with recent experience working on global circulation and climate change models. At the very least, this assumption should be subjected to peer scientific review by other climatologists. Peer review and consensus must also be reached on the modeling work conducted by the United States Geological Survey to predict probabilities of natural overflow, based upon the wet cycle assumptions made by the University of North Dakota. In the absence of these reviews and consensus being reached, the entire period of record should be used to predict future precipitation trends in the Devils Lake region and probabilities of natural overflow. Use of the shorter period of record will overestimate the probability of natural overflow and, therefore, cause future damages to be overestimated.

(3). One of the outlet pumping scenarios includes a 480 cfs pumping rate that is not constrained by downstream channel capacity or water quality conditions. Initial water quality modelling indicates that even a 300 cfs pumping rate, constrained by channel capacity and downstream water quality standards and objectives, causes water quality objectives for sulphate and total dissolved solids established at the

international boundary by the International Joint Commission to be exceeded. Furthermore, the frequency and severity of the exceedances of the IJC sulphate and total dissolved solids objectives will increase as the lake level decreases and concentrations increase. Pumping during drought periods will also increase the frequency and duration of non-compliance with the IJC objectives. Exceedance of water quality objectives at the international boundary through operation of an artificial outlet from Devils Lake would be considered a violation of the Boundary Waters Treaty of 1909 and waivers to these objectives will not be agreed to by Canada.

(4). In order to avoid duplication, the NEPA requires joint EISs to be conducted when similar projects may have similar impacts in the same region. Work is proceeding towards preparation of an EIS by the Bureau of Reclamation, as authorized by the Dakota Water Resources Act of 2000, for projects that may meet future water needs in the Red River valley, including transfer of water from the Missouri River basin. Because both the Devils Lake artificial outlet and the Bureau's out-of-basin transfer from the Missouri River may have similar impacts (*e.g.,* biota transfer, water quality) in the same region (*e.g.* the same reach of the Red River including Canada, Sheyenne River, etc.), and involve the same general time lines (*e.g.*, studies for both projects have recently been initiated) and other than different respective lead agencies, involve many of the same agencies, therefore, it is recommended that the Corps of Engineers and the Bureau of Reclamation do a joint EIS on several issues, including biota transfer, as required by NEPA.

(5). The 1999 Scoping Document states (p. 7) that the EIS will consider "conformity with the 1909 Boundary Waters Treaty," including its relationship to "the spread of exotic species" and "water quality" (ibid., pp. 19, 26). We appreciate the Corps' decision to include such discussions in its environmental analysis. We continue to believe that it is critically important to ensure consistency of any project with the United States' obligations under Boundary Waters Treaty, especially the requirement in Article IV that "boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other." Among other matters, therefore, the EIS must assess whether the project alternatives meet water quality objectives (*e.g.,* sulphate and total dissolved solids) established by the International Joint Commission.

(6). Finally, as an integral part of its environmental analysis, it is important that the Corps thoroughly consider transboundary effects. The 1999 Scoping Document indicates (pp. 3-4) that the geographic scope of the analysis will not extend beyond the U.S.-Canada border. Thus, for example, it notes (p.26) that the EIS "will discuss water quality effects at the Canadian border." This is insufficient. The EIS must include a discussion of impacts within Canada, on Canadian natural resources. The July 1, 1997 CEQ "Memorandum to Heads of Agencies on the Application of the National Environmental Policy Act to Proposed Federal Actions in the United States with Transboundary Impacts" provides definitive guidance to all Federal agencies concerning "proposed federal actions in the United States . .

. that may have transboundary effects extending across the border and affecting another country's environment." The CEQ Memorandum unequivocally states, "NEPA requires agencies to include analysis of reasonably foreseeable transboundary effects of proposed actions in their analysis of proposed actions in the United States." The CEQ Memorandum stresses that this guidance "pertains to all federal agency actions that are normally subject to NEPA, whether covered by an international agreement or not." In the context of the Corps' analysis of the proposed Devils Lake outlet project, among other matters a full discussion of transboundary effects should include water quality, riparian habitat, rare or endangered species, and ecosystem impacts including biota transfer.

Thank you for the opportunity to participate in this important process. As mentioned in my previous attached correspondence of December 22,1997 and August 27,1998 on this matter, the above technical issues identified are specific to this project and do not address Government of Canada broader policy concerns.

Should you have any questions, please feel free to contact me at the above address, by telephone at (306) 780-7004, or e-mail at Richard.Kellow@EC.GC.CA

Sincerely,

R L Kellow

R.L. Kellow
Executive Director
Transboundary Waters Unit
Environment Canada

Attachments

cc. D. Williamson
D. Wright
N. Brandson
J. Vollmershausen

Environment Canada
Environnement Canada

ATTACHMENT 1

TRANSBOUNDARY WATERS UNIT
ENVIRONMENT CANADA
Room 300, 2365 Albert Street
REGINA, SASKATCHEWAN
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Phone: (306) 780-7004
Fax:(306) 780-6810
File: #7031-36/J268-3

December 22, 1997

Colonel J.M. Wonsik, District Engineer
United States Army Corps of Engineers
190 Fifth Street East
St. Paul MN 55101-1638

Attn: Mr. Robert Whiting

Re: NOTICE OF INTENT TO PREPARE A DRAFT ENVIRONMENTAL IMPACT STATEMENT, DEVILS LAKE, NORTH DAKOTA

The Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS) for the Devils Lake project was published in the Federal Register, Oct 21, 1997(62 FR 54617). The Notice states that "Significant issues and resources to be identified in the DEIS will be determined through coordination with the responsible Federal, State, Canadian and local agencies: ..." . The Notice also invites interested parties to participate in the process.

The Transboundary Water Unit, in consultation with other federal and Manitoba agencies, has developed the attached preliminary list of significant scientific and technical issues of interest to Canada which should be addressed in the DEIS. As additional issues and information needs are identified, these will be referred to you in a timely manner.

The technical issues identified are specific to this project and do not address the Government of Canada's broader policy concerns, which must be dealt with in other forums. As well, there may be other technical issues of concern to Canada with this project beyond the purview of the Corps of Engineers which will also need to be addressed in another process.

We will continue to follow the DEIS process and will offer further views and suggestions related to Canadian interests as necessary. Should you have any questions, please feel free to contact me.

Yours sincerely,

R L Kellow

Richard Kellow
Executive Director

Attachment
c.c. D. Williamson, Manitoba Environment

Canada

Draft Environmental Impact Statement
Devils Lake Emergency Outlet
Notice of Intent
Federal Register (62 FR 54617)
October 21, 1997

In addition to the significant issues identified in the Notice of Intent (62 FR 54617), the Draft Environmental Impact Statement should include the following:

(1). All alternative options, including *status quo*, allowing natural overflow via the natural outlet, and upper basin storage, must be addressed in terms of costs, including downstream municipal treatment costs, environmental impacts, benefits, and other issues. Included in the assessment of the *status quo* option should be a detailed discussion of hydrological predictions of lake level fluctuations in the immediate and long-term future, including probability of natural overflow to Stump Lake, and probability of natural overflow to the Sheyenne River. This assessment should consider climate change scenarios. A matrix should be presented showing comparable impacts, costs, and benefits associated with the proposed option as well as for all alternative options from Devils Lake to the international boundary at Emerson.

(2). An alternate option, which should be addressed in accordance with (1), includes the development of one or more polders in the Devils Lake flood zone to protect the city of Devils Lake, the town of Minnewaukan, and agricultural lands.

(3). Comprehensive modelling, based upon a sound and comprehensive data base, should be completed to demonstrate with sufficient scientific rigour how the proposed alternative will not contribute to flooding at the Canada - United States boundary.

(4). Comprehensive modelling, based upon a sound and comprehensive data base, should be completed to demonstrate with sufficient scientific rigour that the proposed alternative will not lead first, to additional exceedences of International Joint Commission water quality objectives and alert levels at the Canada - United States boundary, and second, to cumulative incremental deterioration of existing water quality. It is important to note that the IJC objectives at the international boundary are maximum values that should not be exceeded, but should not be misinterpreted to represent targets up to which pollution can be allowed. Modelling should be completed for variables of significance including but not limited to total dissolved solids (major ions), sulphate, plant nutrients (nitrogen and phosphorus), plus others, and should include seasonal (*e.g.*, water quality impacts attributable to ice formation) and annual differences, various operational plans, various river flow regimes including low and high flow conditions, as well as include cumulative impacts from other existing and planned developments in the Red River basin.

As draw-down of Devils Lake occurs, it is likely that water quality in the vicinity of the outlet will change. Modelling of downstream impacts should also include scenarios that account for such water quality changes over time near the Devils Lake outlet.

.../2

(5). Provide a comprehensive report on impacts that the proposed alternative would have on other downstream water users and water management plans, potential mitigative measures that may be implemented in response, and the subsequent consequences of such measures downstream at the Canada - United States boundary. The assessment should be based, in part, upon proposed revisions to US drinking water standards.

(6). Comprehensively address the issue of both present and future transfer of native and introduced biota to the Devils Lake sub-basin but not indigenous to the Red River basin. Included should be a comprehensive inventory and discussion of studies of the existing assemblage of fish, zooplankton, phytoplankton, insect, and other species within Devils Lake, including fish pathogens and how these compare with existing species in the Red River basin. An assessment of the consequences to biology, commercial fish, sport fish, and endangered species from the transfer of non-indigenous species including pathogens via the proposed alternative should be included.

(7). Evaluate consequences of additional nutrient enrichment arising from the proposed alternative, including the potential for increased production of algal toxins from blue-green algae. Also evaluate the consequences of the water chemistry changes on fish indigenous to the downstream Red River basin.

(8). Report on the algal toxins, trace elements, and pesticides in Devils Lake and assess the significance of these variables downstream at the Canada - United States boundary.

(9). For any feasible options involving a connection to the Hudson Bay basin, describe its operating plan, future ownership, contingency plans, and maintenance responsibilities. Descriptions should be provided of how the proponent would ensure that future operation, contingency, and maintenance would not jeopardize Canadian waters and describe mitigation options for those impacts that cannot be prevented.

Environment Canada | Environnement Canada

Our File:7031-36/J268-3

Room 300, Park Plaza
2365 Albert Street
Regina, SK S4P 4K1

August 27, 1998

Mr. Robert J. Whiting
Chief, Environmental Resources Section
Management and Evaluation Branch
Department of the Army
St. Paul District, Corps of Engineers
190 Fifth Street East
St. Paul MN 55101-1638

Dear Mr. Whiting:

Draft Scoping Document, Devils Lake Emergency Outlet Study

Thank you for the opportunity to provide comments on the draft Scoping Document, Devils Lake Emergency Outlet, Environment Impact Statement, Volumes I and II, dated June, 1998. Comments were developed by the Transboundary Water Unit, in consultation with other federal and Manitoba agencies and are listed below:

(1) Comments provided to Colonel Wonsik on December 22, 1997 from myself in response to the Notice of Intent to prepare a Draft Environmental Impact Statement for the Devils Lake project published in the Federal Register, October 21, 1997 (62 FR 5461) were not identified or attached in the draft Scoping Document. This information should be included in the revised Scoping Document. Another copy of this letter is attached for your information.

(2) With exceptions identified in the following comment #3, we are in general agreement with the list of key issues identified (Section 4.1, Key Issues Identified) that need to be comprehensively addressed prior to making a decision on the feasibility of the project. However, very little detail is provided on each of the key issues, thus providing limited guidance for undertaking the required studies. The revised Scoping Document should include detailed information on each of the key issues that will be addressed prior to making a decision on the outlet.

(3) Additional key issues to be fully addressed as referenced in Comment #2, are as follows:

(i) Those issues not listed but contained in my December 22, 1997 correspondence identified above and attached. Examples would be:
- ⇒ The issue and consequences of both present and future transfer of native and introduced biota to the Devils Lake sub-basin, but not contained in the Red River basin, should be assessed, notably on the ecosystem and economy of the Red River basin.
- ⇒ The alternatives to the outlet should be included in the EA.

(ii) Major water quality concerns include, but are not limited to, sulfate, total dissolved solids, nutrients, mercury, algal toxins including enhanced production of such toxins from additional nutrients, plus arsenic, copper, and lead.

(iii) Major water quantity concerns include, but are not limited to, exacerbation of flooding during spring runoff and during periods of summer precipitation events.

(iv) Several issues listed in Section 4.2, "Other Issues Identified" are critical to the feasibility decision-making process and therefore need to be moved to the Section 4.1, "Key Issues Identified". These include the following:

4.2.1 Downstream Erosion and Sedimentation (Issue G). Assessment of downstream erosion and sedimentation impacts, while recognized as being related to Issue D (Downstream Water Quality), is critical to demonstrate that international obligations can be met.

4.2.2 Operational Issues (Issue T). Impacts to the downstream environment can vary significantly depending upon the operational strategy, monitoring safeguards, regulatory control, oversight procedures, etc. The operational issues critical to meeting downstream international obligations must be detailed and assessed as part of the "Key Issues Identified". The operating agency should be included.

4.2.8 Water Quality in Devils Lake (Issue A). Water quality in Devils Lake is integral to 4.1.1 Downstream Water Quality (Issue B) and 4.2.2 Operational Issues (Issue T), and therefore of concern in terms of meeting international obligations, should be fully assessed particularly the impacts on quality in relation to drawdown.

4.2.9 Downstream Aquatic Resources (Issue F). Assessment of downstream impacts on aquatic resources, particularly through transfer of non-native pathogens or species to the downstream Hudson Bay drainage basin is critical to demonstrate that international obligations can be met.

(v) Several issues listed in Section 4.3, "Issues Summarized or Not Addressed in this EIS" are critical to the feasibility decision-making process and, therefore,

also need to be moved to Section 4.1, "Key Issues Identified". These include the following:

4.3.6 Inlet to Devils Lake. Although PL 105-62 limits consideration of an inlet, long-term water management plans for the State of North Dakota clearly involve an inlet to achieve Devils Lake water level stabilization. The revised Scoping Document should, therefore, either include (1) identification of other existing federal and state legislation that prohibits construction of an inlet and is binding on future federal and state governments, or (2) expansion of the EIS to assess all downstream issues associated with combined operation of both the proposed outlet and any possible future inlet.

Thank you again for the opportunity to provide comments on the draft Scoping Document. As mentioned in my December 22, 1997 correspondence to you on this matter, the above issues identified are specific to this project and do not address Government of Canada's broader policy concerns. These broader policy concerns will need to be addressed in other forums along with additional technical issues related to this project that fall outside the purview of the US Army Corps of Engineers.

We look forward to participating further in this process and will provide additional concerns or information needs in a timely manner as they become identified. Should you have any questions, please feel free to contact me.

Yours sincerely,

R.L. Kellow

Richard Kellow
Executive Director
Transboundary Waters Unit
Environmental Conservation Branch
Prairie and Northern Region

attach.

c.c. D. Williamson, Manitoba Environment, Winnipeg
R. Anfang, USACOE, St. Paul

April 17, 2001

District Engineer
St. Paul District
U.S. Army Corps of Engineers
Attn: PP-PM-E (Robert Anfang)
190 5th Street East
St. Paul, MN 55101-1638

Dear Mr. Anfang:

We wish to submit the following comments regarding the April 2-5, 2001, scoping meetings on Devils Lake Study. The comments identify new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement:

1. What will be the impact associated with increased water flows from an outlet on the riparian forests and habitat along the Sheyenne and Red Rivers? Also, what is the potential impact to riparian forests adjacent to Devils Lake and Stump Lake if no outlet is constructed? The response of woody vegetation to flooding depends on the season, water, depth, flood duration and species. Will these factors be taken into consideration?

2. What are the long-term effects on soils that may impact plant health? Areas of concern include soil aeration, sedimentation, erosion and scouring action on plant roots. For example, bank erosion can expose tree roots resulting in tree decline and mortality.

3. How will forest resources be impacted by an outlet and will this affect the aquatic, fishery and wildlife resources associated with the Sheyenne and Red Rivers? Trees adjacent to streams provide valuable detritus (leaves) that serve as food for fish and aquatic species. Trees provide shade creating fish habitat.

4. What impact will increased water flows (either controlled or uncontrolled) have on water quality? Will the loss of trees have a negative effect on water quality? Riparian forests are known to reduce runoff and serve as valuable filters for nutrients and pollutants.

We appreciate the opportunity to comment on the scoping efforts for Devils Lake Study.

Sincerely,

/s/ Larry A. Kotchman

Larry A. Kotchman, State Forester
North Dakota Forest Service
307 First Street East
Bottineau, ND 58318

040901-Kwapinski

John Kwapinski
5983 Walt Hjelle Parkway
Fort Ransom, ND 58033

April 9, 2001

District Engineer, St. Paul District
U.S. Army Corps of Engineers
Attn: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

Dear Mr. Anfang,

I attended your Scoping Meeting on Devils Lake in Valley City on April 4, 2001. After listening to all the speakers, I have a suggestion for you to consider.

Those of us living downstream along the Sheyenne River are concerned about being flooded by Devils Lake water, with or without an outlet. Build a large earthen dam across the Sheyenne River where ND Hwy 1 crosses the Sheyenne south of Pekin, ND. Put a control structure in it to limit the amount water that would pass through the dam. This dam would be a dry dam, only impounding water when Sheyenne water levels were high enough to cause flooding down stream. You could have ND Hwy 1 cross the top of the dam like the Garrison Dam. Build this dam high enough and strong enough to handle any natural overflow from Devils Lake and the expected erosion of the channel. Landowners above this dam could be compensated for the land expected to be flooded but they could still use the land until it gets flooded. Homes and buildings should be moved to higher ground.

If a Devils Lake Outlet is built this proposed dam could be smaller and would only have to deal with the controlled releases from the outlet. If no outlet is built and Devils Lake naturally flows into the Sheyenne, this dam would act as a buffer to prevent the expected major flooding to communities downstream.

Think about it. Runs some numbers. Maybe a different location would work better.

Sincerely,

John Kwapinski

Jean M. Legge
3212 115 Ave. Southeast
Valley City, North Dakota 58072
701-845-4762

April 9, 2001

David Loss
Robert Anfang
US Army Corps of Engineers
190 5th Street East
St. Paul, MN 55101-1638

Dear Sirs:

I am writing concerning the Devils Lake outlet Scoping Meetings and my perception of how the meeting I attended was handled, or mishandled. I feel that politeness and constraint have value, but sometimes we need some straight talk too.

First, I have attended two of Mr. Loss's presentations recently - one in Fargo previously with the Canadian interests represented at Concordia College. The other was in Valley City on April 4 as a Scoping Meeting.

I have particular concern regarding the choice of statistical information being presented by the Corps of Engineers during these meetings. Information is NOT presented that is relevant to the Corps' preferred outlet (amount and quality of water)that includes water from Peterson Coulee with West End Devils Lake waters into the Sheyenne River. Instead, irrelevant information about a Pelican Lake alternative (not the preferred alternative, and NOT mixed with Peterson Coulee outlet waters) is shown for Total Dissolved Solids and sulfate levels demonstration, and the Sheyenne to Red River confluence. **No water quality information is presented regarding the West End waters going into the Sheyenne River at the point of entry. I want complete and accurate acccounting of that outlet scenario being explored.**

Having watched 2 presentations by Mr. Loss now, I realize this lack of information regarding the Sheyenne River and Devils Lake water scenario is not a fluke, but appears to me to be an intentional act to confuse people with the statistics from one potential (Pelican Lake outlet waters), but highly unlikely, scenario (with better water quality) with the one that is really supposed to be in the planning- a Peterson Coulee-Sheyenne River outlet (with poorer water quality) or a mixture of them and the amounts.

So - the Corps personnel- several of them on hand- wasted their time and our tax money, and the public's time by not presenting relevant information during a scoping meeting which is supposed to inform them regarding impacts of an outlet that they are stakeholders in. I came to find out this specific information and it was not presented.

The EPA Environmental Justice Report of Feb. 23, 2000 points out that downstream interests have not been informed with accurate and adequate information. This practice continues to be true due to the Corps' deliberate avoidance and omittance of statistics about the river and the outlet waters into it. I asked Mr. Loss if he had the data for the Sheyenne River with Peterson Coulee outlet waters and he stated, that, yes he did, but he hadn't brought it along. Good Grief. **What was the point of the scoping meeting for if not to present relevant, appropriate information to us? He didn't bring it along. I must ask, "Why not?" if not for perhaps obvious reasons that the Corps doesn't want us to see it. The appearance of the Corps unwillingness or clumsiness leads one to think "Why?".**

Under Freedom of Information Act, I am making a request for this relevant and appropriate information regarding the Sheyenne River water quality and quantity data and findings to be delivered to me at the above address, as Mr. Loss indicated he could "get it" and has that information. I am also requesting the previously acquired findings regarding the Devils Lake outlet from the Corps' studies-about water quality, water quantity, economic, social and environmental impacts to the communities and citizens and habitats within a 5 mile zone of the Sheyenne River that will be potentially affected by a Devils Lake outlet of any size. Thank you.

Jean Legge

Jean M. Legge
3212 115 Avenue Southeast
Valley City, North Dakota 58401
701-845-4762 jlegge@daktel.com
April 10, 2001

District Engineer, St. Paul District
U. S. Army Corps of Engineers
ATTN: PM-E (Anfang)
190 Fifth Street East
St. Paul, Minnesota 55101-1638

Dear Sir:

The intent of this letter is to provide comments to be included in the Devils Lake outlet, North Dakota Environmental Impact Statement scoping process on measures, concerns and alternatives to deal with flooding in that area.

The dialogue on this subject has been going on for many years and I'm sure you are well versed on the issues. As part of the Scoping Process, comments and concerns are offered in good faith that the individual's participation will be regarded and considered with merit by the Corps of Engineers.

Several areas of concern present themselves:
*First, that in a document posted on the Thomas web site showing congressional testimony, on June 28, 1999, it is quoted that Senator Dorgan read into the record a Draft Summary regarding the Devils Lake outlet prepared by the U. S. Army Corps of Engineers. Where is the rest of that Draft Summary that Senator Dorgan read into the public record?

*Secondly, examination of the science of the "wall of water" or "natural overflow event" needs to be revisited. According to a US Fish & Wildlife Planning Aid Letter (PAL), May 24, 1999, Ecological Services, Bismarck, ND, water quantity discussion states:

"When reviewing the flow projections provided for the 6-year and SPF outflows, it is interesting to note that in spite of significant inflow to the lake, the flow projection shows that evaporation from the lake's surface area will have a dramatic effect in limiting the amount and peak of water that would outflow from the basin. This information should receive the widest possible distribution to the public in efforts to dispel the commonly held notion that a 1459 msl outflow from the Devils Lake basin will produce a 'wall of water' ."

In consideration of the Corps purpose, which-

"is to reduce the flood damages related to the rising lake levels in the flood-prone areas around Devils Lake and to reduce the potential for a natural overflow event.",

I must speak to the issue that with information regarding how large the surface area of the lake gets, how much evaporative surface is exposed, it would seem therefore that to "reduce flood damages" around the

lake would call for changing the infrastructure of roads, adjusting levees, removing vulnerable buildings to a meandering lake edge and imposition of federal guidelines regarding moving people and property away from areas that encounter persistent flooding events, and to adjust to the meandering lake edge which historically shows much higher elevations for longer periods of times - without building an outlet into the Sheyenne River. From reports I have read, the "wall of water" is a concept that doesn't have firm support across-the-board from scientific factions. Twelve more feet of rise shows a slower time to raise each foot, and the increase in surface area and evaporation will slow the rise. To artificially gouge an outlet into the Sheyenne River will cause needless devastation to the river from the Devils Lake waters from both quality and quantity factors. How will landowners be compensated for lost acreage from artificially induced water flows? What could prevent this loss from occurring?

*Third concern is for aquatic inhabitants of the Sheyenne River and terrestrial habitat along the banks, and for Stump Lake. To allow the waters to continue to be funneled into Devils Lake accelerated by 22,700 legal drains and to flood a National Wildlife Refuge due to lack of prevention to reduce the damage to the refuge or the river, and to drown thousands of North Dakota's remaining native forest, private lands, aid river bank destruction from erosion, silting and sedimentation of structures and contamination of groundwater-is unacceptable as an alternative-this list can go on and on.

Rare mussels in the river will be negatively impacted, the life of Baldhill Dam which will be diminished by increased sedimentation from increased flow and silt loads, etc. What is the length of time (if ever) that fresh water quality in the Sheyenne River would be restored? What alternatives are there to re-populate the densities and diversity of aquatic biota? What is the complete list of rare, endangered or threatened species in the river and what alternatives are there for them? What will be the impact on riparian activities such as wildlife use, hunting, fishing, aesthetic appeal, tourism for the downstream areas?

When looking at how to "reduce the potential for a natural overflow event" as stated in your directive for this Scoping process, if an outlet is "assumed" to be the answer to this problem, how much will the takings of private landowners lands along the banks of the river cost over the life of the projected increased quantity and lesser quality water flows? If reducing the potential for an overflow means that building an outlet will decrease an overflow likelihood, the USGS statistics show a 1.8% chance of an overflow without an outlet, and 1% chance with an outlet-either way, it's not much of a chance. Millions of dollars (or even a billion $) in long term negative impacts to the Sheyenne River valley due to a 1% chance difference doesn't seem like an imposing reasonable probability, nor a good enough reason to build an outlet, to deliberately ruin a Scenic Byway and Backway and the homes and farmer's yards not previously used to artificially high water levels such as would be experienced by an outlet operation. Adding unconstrained flows from an outlet to relieve one flooded situation to cause another doesn't seem to make sense. Keep the flooded area in one place.

*Next, comes the use of the word "natural" in a "<u>natural</u> overflow event". How has the Corps determined that this is a natural overflow event, when six miles away is Stump Lake which has only risen 6 feet during the same time and precipitation events? Why hasn't the smaller Stump Lake gone up even higher than Devils Lake, when you compare the proportional drainage basins of each? Could it be that the townships in the Stump Lake watershed have been limited in their drainage permits because of the national wildlife refuge and the potential damage the draining would do to the habitat? Isn't this a glaring example of the fact that over eastern North Dakota many areas received as much or more water than Devils Lake and haven't risen 24 feet? Some areas have risen 6 feet, had roads raised once or twice, trees along edges died

and farm outbuildings inundated or moved. The only difference is that those areas, without natural outlets as many small watersheds tend to characterize, DON'T have Big Coulee, Mauvais Coulee, Little Coulee, Edmore Coulee, Starkweather Coulee draining into them. I believe the difference is the drains, and North Dakota state, county, township, and local government entities support the draining, even to the detriment of those receiving the water.

According to the US Fish & Wildlife PAL report, the

"inflows into Devils Lake are determined by precipitation and manipulation of runoff from drainage systems. Decades of aggressive wetland drainage have increased the efficiency of runoff from precipitation events by enlarging the contributing watershed of Devils Lake through a coordinated network of tens of thousands of ditches and channels. This drainage network, coupled with 6 years of higher than average precipitation account for the rise of Devils Lake."

Further comments include

"it is necessary for the Corps of Engineers to study and quantify that portion of Devils Lake water resulting from manipulation of the basin through watershed drainage. Of critical importance is the determination of the level of Devils Lake water resulting from agricultural drainage."

These comments and determination of opinion by the Fish and Wildlife Service indicate that hydrology of the lake's watershed be evaluated for "natural" and "manmade" consequences to the lake. I challenge the assessment of the Corps directive that includes the word "natural" as an assumption not yet proven and that such proof be made available for public examination and peer examination. The statement **assuming** "natural" flooding event needs to be proven before it can be **assumed**.

Mr. David Loss, during the Scoping meeting, indicated that West Engineering has been hired to determine watershed acreages available to store water in the upper basin. I challenge the method of this evaluation. Determining watershed and wetland conclusions from quick evaluation of what data? At the very least, there should be coordination and consultation among professional agencies regarding the evaluation of "photos" used to determine wetland storage available with ground verification according to approved testing and sampling methods. Is this the manner these types of evaluations are uniformly determined by, or is this a rush job to fit a timeline that is not conducive to thorough examination?

Regardless of cause of the flooding, however, experiences during the past decade of many flooding events all over the country, repeatedly flooded areas don't build great diversion channels to direct waters from people living on their edges to flood other people. Instead, federal programs encourage people to move out of the water's way. To move people away from the lake edge is an alternative that in this case would lessen impacts in a more economically responsible manner, proving less costly than exploiting the Sheyenne River and all its costs and ruination-with more flooding, takings of private lands, intentionally flooded habitat, etc.

I ask that the Corps consider that draining may contribute significant runoff to Devils Lake, and to prevent an overflow event, this water input should be minimized by restricting drainage and amending drainage systems to reduce inflows as a more economically sound alternative to building and maintaining an outlet and the ensuing destruction downstream. I will not use the word "natural" because I will not assume or imply that this is a natural event. This is supported in the PAL US Fish & Wildlife report, which calls

for state and county drain boards to:

"address the issue of upper basin management as a way to reduce inflow to the lake. This is a legitimate alternative that does not simply pass the problem downstream to other areas. "

"Recommendations:...The Corps should recommend in their report to Congress, that the State exercise its authority to prevent or minimize artificial inflow from the watershed which contributes to the flooding problems associated with Devils Lake. Also, the State should exercise its authority to manage basin runoff. ...

The Corps and State should coordinate a moratorium on all new drainage or projects that result in increasing inflow to Devils Lake for the life of the project."

Agricultural inflows are not "natural" waters. Local management of drainage deserves attention from the Corps in its alternative, in the extreme, instead of being minimized. I have heard that drainage contributes 10%, and I have heard 7%, either of which should be significant enough to deal with, considering that the reported cost per foot is over $20 million.

However, I don't think people draining want to quit draining, regardless of the impact downstream. People receiving the waters want to pass it on down, letting gravity move it somewhere else. Devils Lake water has a history of poor quality, fish kills, high amounts of agricultural chemical components, mercury levels that trigger fish consumption advisories. The higher waters of the perpetually high water situation present in Devils Lake has resulted in an increase in the fishing and waterfowl tourism industry in the area. This isn't an emergency, it is a lake reclaiming once covered boundaries. I feel that once the lake is draining by a manmade outlet, it will never stop. More draining opportunities abound, as indicated by a county official during a public meeting in Tolna - "once an outlet gets in, we can get some more drains going. (into Stump Lake). We"ve been waiting a long time." This was verified by USGS personnel who are monitoring areas north of Stump Lake so water quality values will be ready if, and when, an outlet becomes available.

Federal guidance may be (should be) more objective in a case where state and county interests are self-serving, and not far-sighted enough. The waters are too different from Devils Lake to the Sheyenne River, and the quantities too vast to put the lake into the river.

Sincerely,

Jean Legge

Jean Legge
Biology and Environmental Science Teacher

STATE OF MISSOURI
Bob Holden, Governor • Stephen M. Mahfood, Director
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE DIRECTOR
P.O. Box 176 Jefferson City, MO 65102-0176

April 20, 2001

Colonel Kenneth S. Kasprisin
District Engineer, St. Paul District
U.S. Army Corps of Engineers
190 5th Street East
St. Paul, MN 55101-1638

Robert Anfang
St. Paul District
U.S. Army Corps of Engineers
ATTN: PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

Dear Colonel Kasprisin and Mr. Anfang:

Thank you for the opportunity to comment on the proposed changes to the Devils Lake Study referenced in the Devils Lake Study Newsletter, Issue #4, March 2001.

Under the Funding and Authorization section of this document, it is stated that, " . . . the Corps received $2 million from a supplemental appropriation, and another $4 million was included in FY 2001 appropriations. These funds, which are from the General Investigation account, are for preconstruction engineering and design of an emergency outlet from Devils Lake to the Sheyenne River and for the associated EIS. This supplements an earlier allocation f $5 million that was made available through the 1997 Emergency Supplemental Appropriations Act under the Flood Control and Coastal Emergency account."

We oppose expanding the purpose of the proposed action to include ". . . reduc[ing] the potential for a natural overflow event." This is not within the scope of the statutory language appropriating the funds for "preconstruction engineering and design of an emergency outlet." We therefore respectfully request that the Corps not expand the scope of study as proposed in the aforementioned newsletter.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES

Stephen Mahfood
Director

SM:lcj

c: Senator Christopher Bond
Senator Jean Carnahan
Congressman Richard Gephardt
Congressman Ike Skelton
Congresswoman Karen McCarthy
Congressman Kenny Hulshof
Congressman Roy Blunt
Congresswoman Jo Ann Emerson
Congressman William L. Clay, Jr.
Congressman Todd Akin
Congressman Sam Graves
Missouri Attorney General Jay Nixon

To: District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

From: William L. Moore
Box 194
Rogers, ND 58479

Re: Scoping Meetings-Devils Lake Study

The Corps should follow and abide by the directives for an outlet from Devils Lake, North Dakota, to the Sheyenne River as stated in pages 909-910 of the Budget of the U.S., FY 2001.

The Corps has not demonstrated an ability to conduct reliable economic analyses of other projects, so there is little reason to believe that the Corps will do an adequate economic analysis of this project. There is a history of over estimating benefits, under estimating costs, and "cooking the books".

To date the adverse impacts on the Sheyenne River have not been addressed. All of the projects costs should be included in the economic analysis, especially those to the Sheyenne River.

Considering the Corps' history of flawed economic analyses there should be an independent economic analysis of this project.

I believe that the Corps should conduct a full and complete analysis of this project and not treat it as an emergency. Since there is so little scientific data on the Sheyenne River, one or two years of studies are not adequate to determine a baseline and predict the impacts on the biota.

Fuzzy Math

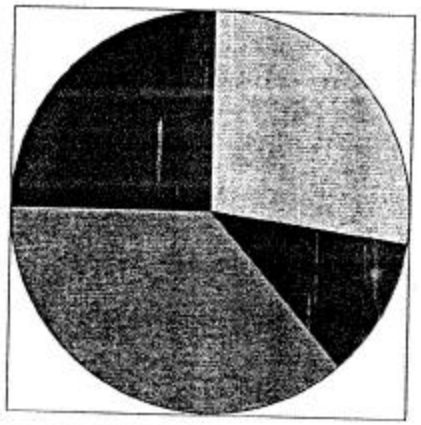
The Ins and Outs of the Corps' Economic Analyses

Economic Forecasts

- Growing the Pie
- The Hockey Stick Trick
- Projections that Don't Come True
- Changed Market Conditions
- Outdated Data

Growing the Pie

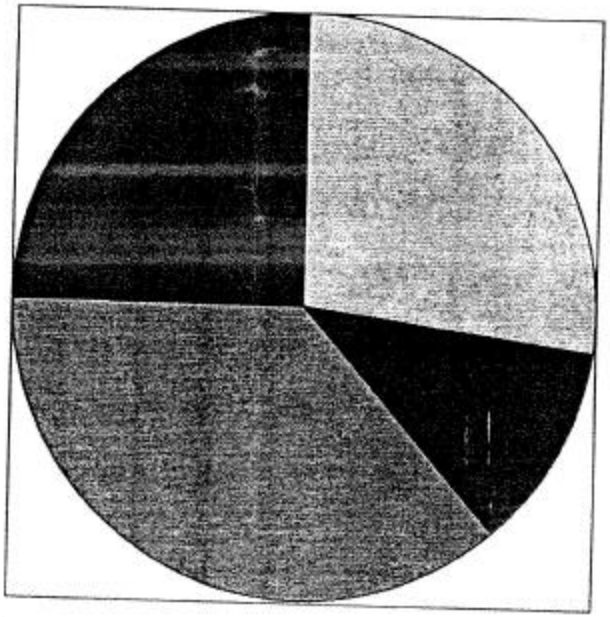
2001



□ North Atlantic ■ South Atlantic
▩ Gulf Region ■ West Coast

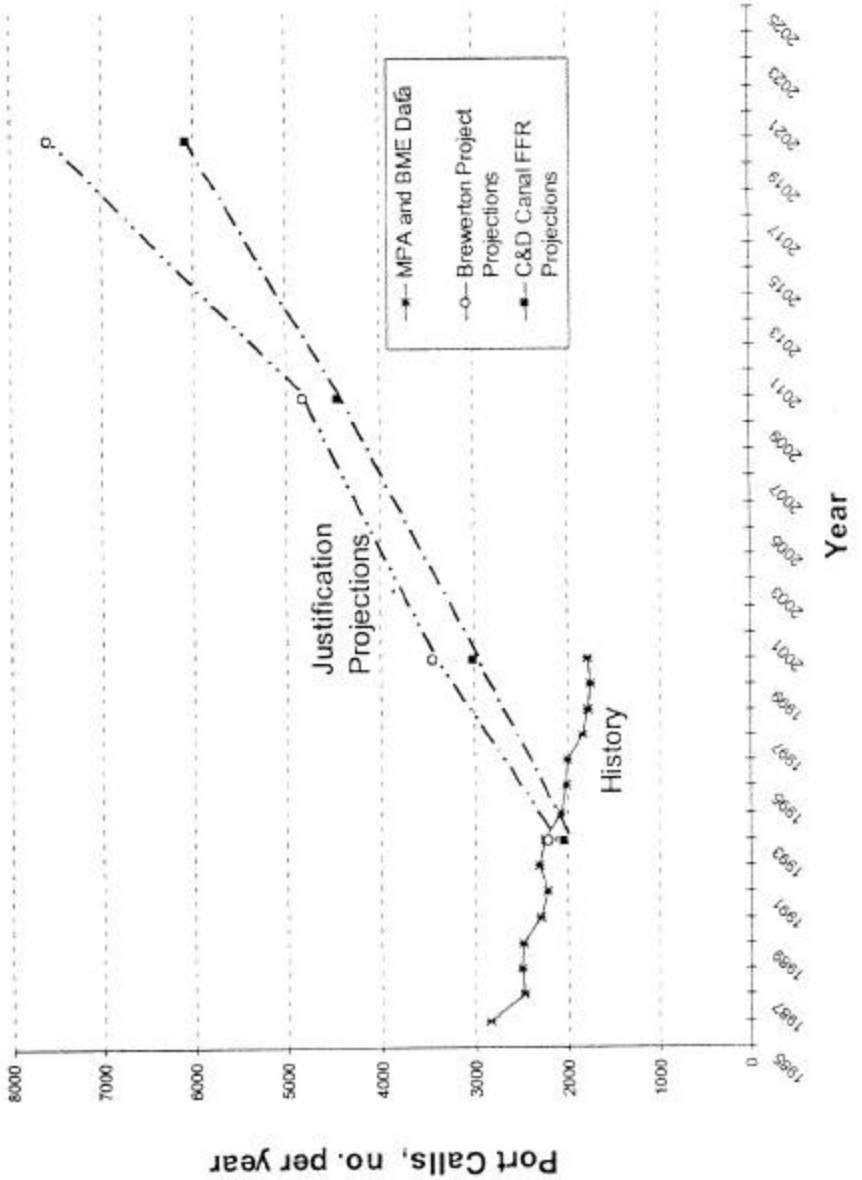
For Example

2020



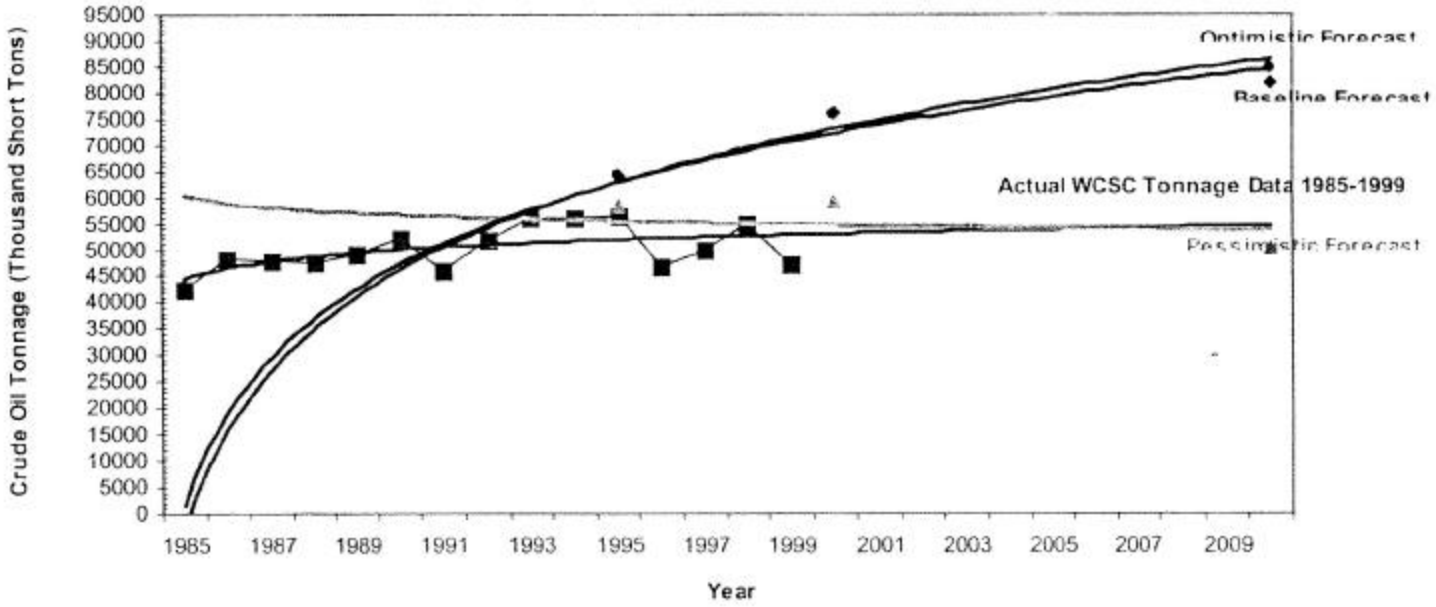
□ North Atlantic ■ South Atlantic
▩ Gulf Region ■ West Coast

The Hockey Stick Trick



Delaware River Deepening: Projections That Don't Come True

Actual Crude Oil Tonnage Vs. Army Corps Projections for the Delaware River Deepening Project



Note: Baseline Forecast Used in Calculating Benefit-to-Cost Ratio

Source: Army Corps of Engineers Waterways Commerce Statistics Center (WCSC)

No Date-Moore (Pg. 6)

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

COMMENT FORM: The purpose of these meetings is to identify any new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement. Any new issues can be identified on this form and mailed to the Corps at the following address by 20 April 2001. Email responses are also acceptable.

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

From
Judy Ovre
711 Lakeshore Dr. NW
Devils Lake, ND 58301

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address. 3-11-2001

After last Tuesday's scoping mtg it became clear to me I'd forgotten one of the impediments for the outlet. "Govt. red tape" is now added to #4.

It also seems frustrating that we keep dealing with new people and new administrations so that there's always need for new studies. On this project, democracy is woefully inadequate - what we could use is a benevolent dictatorship!

The criterion that the lake must be rising to implement the outlet seems unfair to me. We could have a couple of years where it slowly subsides and then rises again significantly. This allows no recompense for those whose property has gone under already. There are so many hoops to jump it may be impossible to satisfy each stipulation. Better to see the overall picture which is grim without a controlled outlet.

Please don't raise dikes any higher - they are an eyesore as it is. 40

April 17, 2001

Robert Anfang
District Engineer, St. Paul District
Attention: PP-PM-E (Anfang)
190 - 5th Street East
St. Paul, MN 55101-1638

Mr. Anfang:

Listed below are scoping comments, in relation to the scoping meeting that was held at Devils Lake on April 3, 2001, for the Devils Lake Study. We also have some comments about the February 1999 Scoping Document, for this same project.

The comments are from the Peterson Coulee Outlet Association. Our members are citizens from Benson and Ramsey Counties, and the association was formed in 1997 because of concerns about the impacts from the proposed outlet project.

First we would like to state that all of the scoping comments our association originally submitted, dated August 26, 1998, are still valid.

Our comment about the Devils Lake scoping meeting itself is that it was interesting to see the overwhelming public support for an outlet project located along a route from Stump Lake to the Sheyenne River. This support needs to be taken into consideration as the US Army Corps Of Engineers (USACOE) evaluates alternatives for this project, and for writing the Environmental Impact Statement (EIS).

The other comments we have refer to the Scoping Document, Volume I, Background and Issues, dated February 1999, by the US Army Corps Of Engineers. We know that revisions to this document will be required to incorporate the results of the March 2001 scoping meetings into the document. The Purpose and Need statement in the Scoping Document and the EIS will also be amended. However, we do not agree with all of the conclusions stated in the February 1999 Scoping Document, and many of these will need to be revised for use in the Scoping Document and the EIS. The comments from our association are given below in the same order as the information in the Scoping Document.

Section 1.0

In the second paragraph, it is stated "However, due to rapidly rising lake levels, the study focus to date has been primarily on flood damage reduction".

The comment about rapidly rising lake levels is no longer true. The lake did rise rapidly several years ago when it was a much smaller lake, but as a larger lake the levels have recently stabilized, or only risen slowly (after 1998). Now the lake is much larger and is generally self-stabilizing, where the inflows from spring snowmelt and rainfall are balanced by the summer and fall losses due to evaporation, and transpiration by plants.

Therefore the focus of this study needs to now shift away from primarily flood damage reduction. It needs to be shifted towards the consideration of all major factors involved in the water management needs of Devils Lake, based on only a (potential) future slow rise of the lake.

Section 1.3

Apparently, the purpose and need statement will be revised as described in the Devils Lake Study Newsletter, Issue #4, March 2001. The revision will be to add the phrase "and to reduce the potential for a natural overflow event".

By adding this statement, there are actually two outlet projects that need to be considered in the EIS. One is the Devils Lake outlet described as the proposed action. The other is a discharge control structure that would be constructed at Stump Lake, to control the release of water into the Tolna Coulee, if the lake ever reached the maximum overflow elevation. This control structure would allow the state to control the rate of flow of water released into the Sheyenne River, so that there could be no large flows associated with this event. So the EIS needs to address both of these projects at the same time. (In the map on page 2 of the newsletter, apparently a portion of this type of structure is described as a "spillway channel").

This section of the document should also state that a goal of the project is to improve the water quality and biological habitat of Devils Lake. Proper wording of the purpose and need statement is critically important, so that the best alternative is selected for the project.

Section 2.0

This geographic scope of analysis should be revised to include the Red River Basin in Canada, since the project has the potential to affect their water quality and aquatic resources.

Section 3.0

In this section it is stated that "a number of alternatives were investigated to reduce damages caused by rising lake levels. ... A number of these were dropped from further consideration for various reasons."

Some of the alternatives dropped from further consideration were "various outlet channel alignments". This is not acceptable, and will not produce the BEST alternative for the project at the conclusion of the EIS process. As our association emphasized in our 1998 scoping comments, <u>all reasonable alternatives</u> must be included in the EIS.

ALL reasonable channel alignments need to be discussed in the EIS as separate alternatives. They need to be treated as SEPARATE alternatives because the costs, benefits, effectiveness, impacts, and other factors associated with them vary significantly. These alternatives would include the Stump Lake, East Devils Lake, Twin Lakes, Highway 281, and Peterson Coulee routes. They need to compared using comparison tables and other methods.

These outlet alignments are all reasonable alternatives for the proposed action. Any other alignments that are considered to be not reasonable need to have a summary of relevant information presented about them. This summary should have sufficient information presented so that the public would also make the conclusion that they are not reasonable upon reviewing the information. For an EIS, it is not sufficient to simply state that they are not reasonable without a summary of the information used to make that conclusion.

Otherwise, a reasonable alternative could be arbitrarily dropped from consideration. And that alternative could even be the BEST ALTERNATIVE for meeting the purpose and need for the project. If this were to happen, it would be in violation of the spirit and intent of the NEPA process.

There is some additional guidance on this topic in the Memorandum from the Council On Environmental Quality, dated March 16, 1981, referring to the content of an EIS. In the answer to Question 7 it states: "The alternatives section is the heart of the EIS. This section rigorously explores and objectively evaluates all reasonable alternatives including the proposed action." And the answer to Question 5b states: "The degree of analysis devoted to each alternative in the EIS is to be substantially similar to that devoted to the proposed action."

Section 3.1

For this section, the word "emergency" should be dropped from the phrase "emergency outlet". The politicians involved in this project have stated that this is an emergency situation without just cause, and without even defining this term. We object to the consideration of this project as an emergency, because there is no threat of loss of life from the lake now, or in the foreseeable future.

The first sentence should be revised to state "A number of routes and conveyance methods will be considered as alternatives". To ONLY DISCUSS them is not legally sufficient, when they are in fact separate, reasonable alternatives. And to even select the Peterson Coulee alignment as the proposed action is premature, because the selection was not based on a comprehensive and objective comparison of reasonable alternatives.

The proposed action should be restated as "Devils Lake outlet" where all reasonable alignments are considered with the same level of detail within the EIS. The selection of the preferred alignment should be the end result of the EIS, if the proposed action (Devils Lake outlet) is shown to be technically sound, economically feasible, and environmentally acceptable. Again, to do otherwise would be in violation of the spirit and intent of the NEPA process.

And as our association stated earlier in the comments for Section 1.3, the EIS should also consider a discharge control structure that would be constructed at Stump Lake. It would be used to control the release of water into the Sheyenne River if the lake reached its natural maximum overflow elevation. For the west-end and south-side outlet alternatives, a separate control structure would be required in addition to the outlet. For the east-end outlet alternatives, the outlet itself could function as the control structure, if designed properly. If that were the case, there would only be a small additional cost to the project for the structure.

Section 3.2

This section should include a description and cost estimate for the construction of a levee at Minnewaukan, since this city that will be affected if the lake level continues to rise. Consideration should be given to the construction of the levee where it would also function as the relocated US Highway 281 (to the east of the city).

Section 3.3

Upper Basin Management needs to be included as an alternative in the EIS. Its scope should encompass enhanced storage areas, in addition to creating storage from already drained wetlands.

Figure 2

This figure is inaccurate since it shows the community of Oberon at US Highway 281. It is actually located several miles to the west.

Section 4.1

Three additional issues need to be placed in the category of KEY ISSUES IDENTIFIED. They are now categorized as OTHER ISSUES IDENTIFIED. These issues, and the reasons to include them as KEY ISSUES are given below:

Operational Issues (Issue T)

The operation of an outlet has a huge impact on the effectiveness of it. For example, we do not believe that the outlet could operate for 7 months of the year, due to summer rainstorm flooding. If this is an assumption for the modeling, it needs to be re-examined. There is also the topic of operational funding for the outlet. These costs will be local taxes, so this also makes it a Key Issue for the project.

(There is also some clarification needed here, because in Comment 39, the document states that this issue is already considered to be a KEY ISSUE).

Groundwater (Issue H)

As our association has stated in our prior comments, the existence of the Spiritwood Aquifer, where it is in contact with the lake bed, has the potential to render an outlet much less effective, or even ineffective. So because this could cause the outlet project to fail the Technical Soundness criteria mandated by Congress, this is indeed a KEY ISSUE. (A technically sound project is one that will work as planned).

As stated in Section 4.0 of the document "An essential requirement of scoping under the NEPA is to determine which issues are crucial to a decision to construct an outlet or not". This issue is certainly crucial. Because it is a KEY ISSUE, additional monitoring and studies are needed to determine the extent of the interaction between the lake and the aquifer, because there is currently insufficient information available on this subject.

Devils Lake Water Quality (Issue K)

This is a KEY ISSUE because some outlet alternatives will remove poorer quality lake water, and thus improve the overall lake water quality. Other outlet alternatives will remove good quality lake water, and thus degrade the overall lake water quality. The effect of this removal of water will have a very great long-term effect on the entire Devils Lake ecosystem. It is therefore a KEY ISSUE in a decision about whether to proceed with the proposed action (a Devils Lake outlet).

For example, the production of fish within Devils Lake has great economic value to the entire region. And good quality water is essential to the use of the lake for boating and other recreational purposes. (The Spirit Lake Nation has even recently constructed a marina to utilize this resource). So the water quality affects both the aquatic resources and the recreational resources.

Section 4.3.6

Since an inlet could potentially be included in the long-term water management of Devils Lake, it should be included as one of the issues for the project in the EIS. The state has a long-term plan to construct an inlet to Devils Lake, so this should be addressed. Even from a legal standpoint, the EIS should address whether there is, or will be, any agreement where an inlet is prohibited in relation to the state's long term water management plans. And the EIS should address whether or not a proposed outlet could be converted to an inlet in the future.

Section 6.0

Section 6.0 is a summary of the written comments received from the 1998 scoping process. Our association does not agree with many of the responses from the USACOE. We have a number of comments to make about some of these responses. They are given below in the same order as the comments and responses in the report.

Comment 9

In 1998, Our association stated that the term "emergency" needs to be defined, but the scoping document still fails to define it. So the whole premise for the emergency nature of this project is still based on an arbitrary declaration by several individuals that this is an "emergency".

The Acting Assistant Secretary of the Army simply has declared it to be an emergency based on criteria that has never been disclosed. It is doubtful if his determination was based on a thorough evaluation of the Devils Lake flooding situation.

And the language in the Congressional bill was written by the ND Congressional Delegation. They have also simply "declared" this to be an emergency, without ever defining what that means. The flooding in Devils Lake is a "serious" situation, but it is not an "emergency" situation. An emergency is commonly defined as an event where there is potential for loss of life. The slow moving Devils Lake flooding certainly does not fit that definition. And even the extremely unlikely event of the lake's overflow into the Sheyenne River is at least 15 years in the future, at the earliest, assuming prolonged wet weather conditions. Again, this does not describe an emergency situation.

Because it is not an emergency situation, there is sufficient time for a thorough EIS to be completed. There is no justification for any shorted schedules or incomplete activities. Any attempt to shorten the process by eliminating alternatives, without a thorough and objective analysis, will not be tolerated by the stakeholders who would be affected by the project. If ALL reasonable alternatives are not considered, the whole EIS process will not be legally sufficient, or valid.

Because there is no emergency, the term should be dropped from the title of the project, and any other reference to it in the document should be eliminated.

Comment 10

The document also states in the response that "It is the goal of the Corps in planning this . . . project to meet the purpose and need while minimizing harm to the environment".

If the Corps follows the direction in this statement, it will not result in the proper decision for the project.

Instead, the guidance for decision-making at the end of the EIS process should be revised to state that: "It is the goal of the Corps in planning this project to select the alternative that BEST achieves the purpose and need, while minimizing harm to the environment".

The direction stated in the document implies that the USACOE does not need to select the BEST alternative. But this would not be in the best interests of the government, the citizens, or the environment. To select an alternative that ONLY meets the purpose and need would not be wise, or prudent. On most public projects, there are many alternatives that meet the purpose and need, but only one of them is the BEST alternative. The EIS process can be used to select this alternative, if it is properly carried out. To proceed with insufficient information, or to arbitrarily eliminate alternatives, would constitute an illegal use of the process. It would violate both the spirit and intent of the NEPA process.

Comment 12

In this section, the document states that the proposed action is an emergency outlet along the Peterson Coulee. In the EIS, it cannot simply be stated that the selection of the Peterson Coulee route was selected "based on numerous prior studies, meetings, and public and agency input." The selection of the Peterson Coulee outlet for the proposed action could not be based on these studies, meetings, and agency input as stated. This cannot be true because most local city and local county officials, and the majority of the public have expressed a preference for the Stump Lake Outlet Alternative. For example, at the April 3, 2001 Scoping Meeting at Devils Lake that was attended by some people in our association, a stand-up vote was taken, and the vast majority of these people preferred the Stump Lake Outlet Alternative. Only a few people preferred the Peterson Coulee Outlet Alternative.

So the other alternative routes for an outlet must be included in the EIS as reasonable alternatives. Then the selection of the BEST alternative can take place at the end of the EIS process, based on a fair comparison of the costs, benefits, impacts, and environmental impacts associated each of the alternatives. To select the Peterson Coulee outlet alternative as the proposed action is contrary to the views expressed by the majority of local people and local government officials. Instead, the proposed action should be described as a "Devils Lake outlet".

Comment 13

As stated in our association's comments in Section 1.3, the purpose and need statement should also state that a goal of the project is to improve the water quality and biological habitat of Devils Lake. Since there is no emergency, this additional goal should be included in the scope of the project.

Comment 14

Two possible time frame scenarios should be studied for the operation of the outlet.

The first scenario is where the outlet will only be used to lower the lake for a limited time (5 to 7 years, for example), so that a temporary outlet should be considered. For this scenario, the water would be conveyed overland through temporary above-ground pipes, open channels, or even highway ditches. The pipes and pumps would be removed after the lake was lowered. This type of outlet would be much less costly than a permanent outlet. And since a significant future rise of Devils Lake is very improbable, it would prevent a scenario where a permanent outlet was constructed and used only a few years, and then not used again for decades or even centuries. And by the time it was needed, it would probably not even be usable, due to depreciation of the facilities and equipment. So for each of the five (or more) outlet alternatives, a temporary outlet should be considered.

For the second scenario, proposed as a permanent outlet in the scoping information, the time frame would be longer. The outlet would be constructed as a permanent facility, and the outlet would of course be much more costly to construct and maintain. So for each of the five (or more) outlet alternatives, a permanent outlet should also be considered.

Both scenarios should be investigated, since there may be significant cost savings for the temporary outlet, and far less environmental impacts.

Comment 17

The construction of an outlet from Stump Lake or East Devils Lake to the Tolna Coulee seem to be the most viable alternatives, and therefore must be included as reasonable alternatives. These two outlet alternatives have the obvious advantages of allowing gravity flow of the water for low operating costs, and long-term improvement of the overall water quality in Devils Lake.

It is not logical to eliminate these alternatives due to water quality concerns, because the flow rate can be varied over time. Initially the flow rate would be low, and would be increased as the water quality improved. Although this change in water quality would take place over a period of time, the objective of lowering the level of Devils Lake would still be achieved.

The overwhelming majority of people living in the Devils Lake region are in favor of these outlet alternatives, because they create the most long-term benefits, with the least costs. In comparison to other outlet alternatives, these are the obvious "common sense" alternatives, because they are the most cost effective, and most environmentally benificial. To only summarize these alternatives will not be acceptable in the EIS. Instead, they must be presented with sufficient detail to adequately describe and compare them with all other alternatives. And they must be described in detail for the EIS to be legally sufficient. (An example of a comparison table format is included with these comments as Exhibit A).

Comment 18

Congress has not mandated that an outlet be constructed, rather they have mandated that the project be studied. So if the end result of the EIS study process shows that an outlet is not technically sound, or not economically feasible, or not environmentally acceptable, then the outlet will not be constructed.

Furthermore, the legislation states "an emergency outlet from Devils Lake to the Sheyenne River". No specific route is named, because Congress presumed that the EIS study process will determine the best route. Based on this language, it will not be acceptable to limit the EIS to a comparison of only a few alternatives. All reasonable outlet routes must be considered as alternatives, because the costs and benefits vary significantly. And to not consider all reasonable alternatives in the study would be viewed by many in Congress as political manipulation of the EIS project development process by the State Of North Dakota.

Comment 20

To ensure that the public has full access to these reports, a list and description of the reports should be mailed to everyone on the project's mailing list.

Comment 21

We agree with the intention described in Comment 21. Many different methods could be used to evaluate alternatives, so it is very important to choose methods that allow for an objective comparison of all factors. The methods need to be explained very clearly in the EIS.

In the response it is stated that "the purpose of the NEPA process is . . . to explore the environmental consequences of alternative courses of action".

The environmental consequences of alternatives can only be compared if all reasonable alternatives are included in the process. To not include all reasonable alternatives could eliminate an alternative that is cost effective, and has minimal environmental impacts. So ALL reasonable outlet alternatives need to be studied to a sufficient level of detail in the EIS to produce this information. And in the NEPA process, the term environment also includes the human environment. Within the human environment, local and regional costs (usually paid by taxes) are of great importance. So this is another justification to include all reasonable outlet alternatives in the EIS process, because the costs vary greatly.

Comment 35

We agree that modeling should include scenarios that account for water quality changes over time. For the five (or more) reasonable outlet alternatives, the changes in water quality over time in Devils Lake vary greatly.

For the Stump Lake and East Devils Lake alternatives, the overall quality of the water in Devils Lake would improve significantly over time. This is because the outlet would allow the fresh water added each spring to move through the chain of lakes that make up Devils Lake. The outlet would allow Devils Lake to function like a river system.

In contrast, for the Peterson Coulee alternative, the overall quality of the water in Devils Lake would become significantly poorer over time, because the outlet would only remove the highest quality water. This outlet would not allow Devils Lake to function like a river system.

And the other two outlet alternatives would affect the lake water quality somewhere between these two extremes.

Comment 45

The proposed treatment of economic information is not acceptable as described. Each of the five (or more) reasonable outlet alternatives should have a relatively detailed cost estimate included in the EIS.

And decision factors, along with their rationale, should be disclosed in the EIS, prior to the Record Of Decision. The public should also be given an opportunity to comment about the criteria to be used for decision-making, to improve this process. This potential outlet project will impact a huge geographical area if approved for construction. The people who would be affected need to have an opportunity to influence the decision-making process to the greatest extent possible.

Comment 58

The legal and illegal drains may be an issue if the EIS shows that a properly managed upper basin storage program would eliminate the need for an outlet. (Including elements of enhanced storage, where water is stored in areas that never held water previously).

Comment 60

As landowners, we are still convinced that there would be significant devaluation of each parcel of land involved in an outlet project. The real estate cost estimates for any outlet alternative should be increased to account for land devaluation compensation. Otherwise the cost estimates will be inaccurate, because the cost estimates for the outlet alternatives will be too low.

Comment 70

As we stated earlier in Section 4.1, groundwater is definitely a KEY ISSUE, since large groundwater flows could make an outlet less effective, or even ineffective. This is certainly crucial information in a decision about whether to proceed with an outlet or not.

Comment 74

The effect of the five (or more) outlet alternatives on the salinity of Devils Lake water needs to be estimated for each of these outlet alternatives.

Comments 89, 91, and 92

We agree with the points made in Comments 89, 91, and 92. An inlet is a reasonably foreseeable action, unless there is in existence some legally binding agreement that forbids the state from constructing an inlet in the future.

If there is no legally binding agreement, then the EIS study will not be valid.

For example, with no agreement, what is to prevent the State Of North Dakota from converting the outlet to an inlet in the future? Or, what is to prevent the state from constructing a separate inlet?

In either case, if an inlet is constructed in the future, then the information and conclusions in the EIS study concerning the outlet project will become invalid. They would be invalid because the inlet was not included in the modeling and consideration of impacts.

So the EIS should consider the inlet for this project, or demonstrate that there is a legally binding agreement that prevents the state from constructing an inlet in the future.

Comment 98

A section addressing the Virtual Flood Computer Simulation should definitely be added to the EIS. The response states that the modeling is potentially useful technology. We know that this modeling uses state of the art technology. For modeling a very complex project such as this one, it should definitely be used. It will not be sufficient to only use the data that is associated with the prior analysis.

Sincerely,

Thelma Paulson

Thelma Paulson, President

Peterson Coulee Outlet Association
3321 54th Avenue NE
Maddock, ND 58348-9636

Alternative	Annual Benefits	Annual Costs	Benefit - Cost Ratio	Construction Cost	Operating Cost	Water Flow Method	Water Flow Rate	Lake Water Quality	Discharge Structure	Length Of Route	Land Ownership
Peterson Coulee Outlet				$54 Million	$1.5 Million	Pumped	Steady	Degrades	Separate	13 Miles	Private
US Highway 281 Outlet				$46 Million	$1.3 Million	Pumped + Gravity	Steady	Degrades	Separate	10 Miles	Tribal and State
Twin Lakes Outlet				$25 Million	$0.7 Million	Pumped + Gravity	Steady or Variable	Degrades	Separate	10 Miles	Tribal and Private
East Devils Lake Outlet	$20 Million	$10 Million	2.0	$20 Million	$0.5 Million	Gravity	Variable	Improves	Combined	14 Miles	Private
Stump Lake Outlet	$25 Million	$10 Million	2.5	$15 Million	$0.4 Million	Gravity	Variable	Improves	Combined	11 Miles	Private

Note: Information shown is for example, only.

Attachment A

041701-Paulson
(Pg. 17)

GARY L. PEARSON, D. V. M.
1305 BUSINESS LOOP EAST
JAMESTOWN, NORTH DAKOTA 58401

TELEPHONE (701) 252-6036

April 8, 2001

District Engineer, St. Paul District
U. S. Army Corps of Engineers
ATTN: PM-E (Anfang)
190 5th Street East
St. Paul, Minnesota 55101-1638

Dear Sir:

The following comments are provided in response to the announcement in the March 2001, Issue #4, *Devils Lake Study Newsletter* that the U. S. Army Corps of Engineers is initiating a supplemental scoping process for an Environmental Impact Statement (EIS) on measures to deal with flooding problems at Devils Lake, North Dakota. It is my understanding that comments are to address additional alternatives, concerns or issues beyond those identified in the previous 1998 scoping process that should be examined. Therefore, I would like to request that these comments be included in the formal record of this supplemental scoping process.

Purpose

According to the *Newsletter*, the reason for issuing a revised Notice of Intent to Prepare an Environmental Impact Statement is that the Purpose and Need Statement has been changed from:

> "The purpose of the proposed action is the reduction of flood damages and flood protection costs related to the rising lake levels in the flood-prone areas around Devils Lake."

to:

> "The purpose of the proposed action is to reduce the flood damages related to the rising lake levels in the flood-prone areas around Devils Lake and to reduce the potential for a natural overflow event."

However, the elimination of the reduction of flood protection costs from the purpose of the proposed action and the addition of the reduction of the potential for a natural overflow event as a purpose of the action without including consideration of the costs and benefits of either suggests that the purpose of the proposed action is not to identify an economically feasible action for dealing with either the flooding problems at Devils Lake or a natural overflow to the Sheyenne River. Indeed, the revised Purpose and Need Statement would appear to endorse actions that

could actually increase flood protection costs. The EIS should explain whether the purpose is simply to reduce flood damages at Devils Lake and the potential for a natural overflow to the Sheyenne River, or whether it is to identify technically sound, economically feasible, and environmentally acceptable alternatives for dealing with problems caused by the water levels at Devils Lake if they should continue to rise.

Need

According to the *Newsletter*, the proposed action is an outlet to the Sheyenne River with either a "constrained" discharge of a maximum of 300 cubic feet per second (cfs) or an "unconstrained" discharge of 480 cfs. However, nowhere in discussing the need for an outlet does the *Newsletter* address substantively the causes for the recent rise in Devils Lake, except to state that:

> "In evaluating the proposed action and its alternatives, the Corps is assuming, based on studies by the U. S. Geological Survey and the University of North Dakota, that the current wet cycle will continue to the point of causing Devils Lake to naturally overflow into the Sheyenne River."

Although it is axiomatic that the recent rise in the Devils Lake would not have occurred without the increased levels of precipitation that have occurred since 1993, the EIS should point out that this recent rise is well within the historic range of the natural fluctuations in the level of the lake that have occurred perhaps a dozen times or more since the lake was formed by the retreating Wisconsin Glacier 10,000 years ago—and, indeed, the lake was near the current level in the early 19th Century when white men first came to the area. The EIS should explain that the decline of the level of the lake throughout the latter half of the 19th Century and the first half of the 20th Century coincided with settlement of the area, and that development—roads, railroads, power lines, businesses, homes, agriculture, etc.—continued to occur on the bed of the lake even after the level began to rise again in the latter half of the 20th Century. Indeed, development on the lake bed has been permitted to continue even after flooding became a recognized problem in the 1970s. The EIS should point out, therefore, that wide fluctuations in the level of Devils Lake, from nearly dry to overflowing, are entirely natural and expected events, and that the current flooding is simply a man-made problem resulting from ill-advised development within the historic bed of the lake.

This is not to say that nothing should be done about the problems caused by the rising level of Devils Lake, but rather that it is important in identifying measures to deal with those problems to recognize and address the fundamental cause of the problems.

Precipitation

According to the *Newsletter*:

> "In evaluating the proposed action and its alternatives, the Corps is assuming, based on studies by the U. S. Geological Survey and the University of North Dakota, that the current wet cycle will continue to the point of causing Devils Lake to naturally overflow into the Sheyenne River."

However, the EIS should point out that the University of North Dakota's prediction that wetter than average conditions will persist in North Dakota until at least 2015 is based on novel climatological assumptions that are not widely accepted, and that the U. S. Geological Survey's model showing a 2 percent chance of Devils Lake overflowing by 2015 is based on precipitation

over just the 20-year period from 1980 to 1999, which averaged just over 20 inches per year, compared with 16.5 inches per year from 1950 to 1979. The EIS should explain that basing an evaluation of the proposed action and its alternatives on such novel assumptions and selective data would substantially skew the results and inflate the benefits of the proposed action, which is construction of an outlet from Devils Lake to the Sheyenne River.

The EIS should, therefore, base its evaluation of the proposed action and its alternatives on conventional science and accepted climatological assumptions and data, and consider offering the University of North Dakota's novel climatological theories and the U. S. Geological Survey's selected climatological data as an alternative to demonstrate how they skew the results toward worst case scenarios and inflate the chance that Devils Lake will overflow to the Sheyenne River by 2015. The EIS should also conduct its analysis of baseline conditions on accepted climatological assumptions and data, rather than on such speculation and selected data.

Wetland Drainage

Although precipitation drives the level of the lake, it is important also to recognize that land use changes in the basin, principally those related to agriculture—most notably wetland drainage, may contribute substantially to the rate at which the lake rises and the elevation that it reaches at any given level of precipitation, as well as to water quality degradation in the lake. For example, agricultural development in the basin has converted some 1.7 million acres of grasslands and wetlands to cultivated cropland, contributing to runoff and erosion, and fertilizer and pesticide application throughout the watershed have contributed nutrients and other contaminants to the lake. In this context, the EIS should note that, his 1911-1912 Biennial Report, the North Dakota State Engineer pointed out that:

> "The drainage area of Devils Lake is nearly two thousand square miles, but the land lies so nearly level, and there are so many marshes, meadows, small ponds and lakes which arrest the flow of water and from which it evaporates, that it is not likely that the run-off from more than seven hundred to eight hundred square miles of the total area ever reaches the lake."

Today, however, the water from tens of thousands of acres of drained wetlands is rushed directly to Devils Lake through the extensive network of ditches and channels that has been developed, frequently with the support and encouragement of local, State and Federal agencies and drainage interests, particularly in the upper Devils Lake Basin. Thus, wetland drainage in the basin exacerbates the impacts of increased precipitation on the level of the lake and results in the lake reaching higher levels faster than it would previously have reached with those same levels of precipitation

It is important and necessary, therefore, for the EIS to determine as accurately as possible the contribution of wetland drainage in the Devils Lake Basin to the current rise in the lake. In doing so, however, it must be recognized that it is virtually impossible to make an accurate determination of the number and size of drained wetlands by attempting to identify drained wetland basins and the ditches that drain them. This is because, particularly in the case of seasonal and temporary wetlands which may be drained by shallow "plow furrow" ditches, the ditches frequently are rapidly obliterated by cultivation and the wetlands also may be obliterated by cultivation and siltation. Therefore, any attempt to determine the acreage of drained wetlands in the basin by identifying drains and drained basins "after-the-fact" will necessarily result in a significant underestimation of the actual acreage drained. This means that the most reliable way to determine the number and acreage of drained wetlands in the basin would be to compare those

that remain today with the original wetland base. For example, the 1976 Devils Lake Basin Advisory Committee Study Report estimated that 569,000 acres of wetlands originally existed in the basin, that 98,144 acres of wetlands had been drained to that time, and that another 62,000 acres would be drained by 1990. A 1983 study by the North Dakota State Water Commission and the U. S. Fish and Wildlife Service (A. P. Ludden, D. L. Frink and D. H. Johnson. 1983. Journal of Soil and Water Conservation 38[1]: 45-48) placed the original wetland base of the Devils Lake Basin at 412,000 acres and estimated their average depth resulting from a 100 year runoff at 18.5 inches and their average maximum depth at 20.5 inches. Estimates of the wetlands currently remaining in the basin generally are in the range of 200,000 acres. This suggests, therefore, that a total of from 212,000 to 369,000 acres of wetlands (with a potential storage capacity of 360,000 to 627,000 acre-feet) have been drained in the Devils Lake Basin. It also suggests that lower estimates of drained wetland acreage based on the identification of drains and drained basins after-the-fact reflect a failure of the methodology employed to identify all drained wetlands. Therefore, it is important to recognize and acknowledge in the EIS that those lower figures must be regarded as incomplete estimates reflecting a minimum number and acreage of wetlands that have been drained in the basin and a corresponding minimum contribution of wetland drainage to the rise in Devils Lake.

The EIS should, therefore, "factor in" any unaccounted loss of wetlands in the Devils Lake Basin (i.e., any discrepancy between estimates of wetland drainage based on after-the-fact identification of drains and drained basins and the difference between the original wetland base and the acreage of remaining wetlands) when developing an estimate the contribution of wetland drainage to the rise in the level of Devils Lake, and it should show how the contribution from wetland drainage in the basin impacts the level of Devils Lake and influences the probability that the lake will overflow to the Sheyenne River under different assumptions regarding future precipitation.

The EIS should also discuss in detail how continued drainage of the 200,000 acres or wetlands remaining in the Devils Lake Basin will impact the level of the lake under different assumptions regarding precipitation, and how it will increase the potential for the lake to overflow to the Sheyenne River, both with and without the construction of the proposed outlet. The EIS should then identify the impacts resulting from Devils Lake overflowing to the Sheyenne River that would be attributable to the increased volumes of water contributed from drained wetlands and compare those impacts with the impacts that would occur without that wetland drainage.

Finally, because continued drainage of the 200,000 acres of wetlands remaining in the Devils Lake Basin would incrementally diminish and ultimately negate any benefits of an outlet constructed from Devils Lake to the Sheyenne River, the EIS should discuss in detail the impacts on the level of the lake, with and without an outlet, of continued wetland drainage in the basin. The EIS should then outline the measures that would have to implemented to prevent further wetland drainage in the basin in order to protect the public investment in the proposed action and other alternatives, including expenditures to date for raising roads, moving homes, protecting infrastructure and constructing a levee to protect the City of Devils Lake. The EIS should describe, in detail, a program for monitoring wetland drainage in the Devils Lake Basin and for the effective enforcement of restrictions on wetland drainage in the basin, and it should discuss how the Corps proposes to assure that the program is implemented before further public revenues are expended on the proposed action or alternative actions.

Wetland Restoration

In evaluating the alternative of wetland restoration for reducing the level of Devils Lake, the EIS should recognize that the potential for increased storage in wetlands is not limited to raising the

outlet elevations of some of the larger lakes in the upper basin, but includes restoration of drained wetland basins throughout the watershed. The EIS should also recognize that much of the storage capacity of these wetlands, estimated by Ludden et al. (1983) to average 18.5 to 20.5 inches, is renewable on an annual, or more frequent, basis as a result of evaporation and seepage.

It also is important for the EIS to recognize that, unlike an outlet which removes water only after it has reached the lake and has caused damage, water stored in wetlands is prevented from reaching the lake and contributing to the flooding problems.

Although restoration of seasonal and temporary wetlands may be less feasible than restoration of deeper wetlands, it is important for the EIS to recognize that they still contribute water to Devils Lake when they are drained, and, therefore, that it is important and necessary to prohibit further drainage of all wetlands in the Devils Lake Basin in order to protect past and future public investments in measures to deal with the flooding problems at Devils Lake.

Potential for Overflow to the Sheyenne River

In addition to discussing how past and future wetland drainage in the Devils Lake Basin increases the potential for the lake to overflow to the Sheyenne River with or without an outlet, the EIS should address that potential in relevant and meaningful terms that the public can understand. For example, it should explain that the statements in the June 2000 U. S. Geological Survey Fact Sheet FS-089-00, prepared by the U. S. Geological Survey, the Regional Weather Information Center at the University of North Dakota and the North Dakota State Water Commission, entitled *Climatology and Potential Effects of an Emergency Outlet, Devils Lake Basin, North Dakota* not only are based on novel climatological theories and selected climatological data as discussed above, but that they represent the very worst case scenarios of major precipitation events occurring after Devils Lake would reach the overflow elevation of 1459 feet above sea level. The EIS should explain that, even if Devils Lake should reach 1459 feet, any overflows would likely be substantially less than those described in the Fact Sheet.

The EIS should analyze objectively the impacts of the entire range of potential flows, from a trickle to the maximum 2,100 cfs projected in the Fact Sheet, if Devils Lake should overflow to the Sheyenne River. In addition, the EIS should analyze the cumulative downstream impacts of the flows from the proposed outlet from Devils Lake in conjunction with those that would result from the levels of precipitation necessary over eastern North Dakota in order for Devils Lake to reach an elevation of 1459 feet.

The EIS should address, factually and objectively and in terms the public can understand, the rampant misinformation regarding the potential for a "catastrophic spill" resulting from Devils Lake eroding the Tolna Coulee 15 to 20 feet and dumping the contents of the lake into the Sheyenne River. For example, the U. S. Geological Survey's June 2000, Fact Sheet FS-089-00 states that:

> "If Devils Lake spills, discharge would flow through a channel to Tolna Coulee and then to the Sheyenne River. Because of the shape of the channel and the soil materials on its bottom (Murphy and others, 1997), erosion likely would commence immediately and could continue down to an elevation of about 1,447 feet above sea level... Such an event would release up to 2 million acre-feet of water, about four times the volume of the 1997 flood at Lisbon, from the Devils Lake system..."

The EIS should point out that the report by Murphy et al (E. C. Murphy, A. K. Fritz and R. F. Flemming. 1997. The Jerusalem and Tolna outlets in the Devils Lake Basin, North Dakota. North Dakota Geological Survey Report of Investigation No. 100, 36 pp.) not only says nothing about the potential for erosion in the Tolna Coulee if Devils Lake should overflow, but the data presented demonstrate exactly the opposite, i.e., that the potential for significant erosion from an overflow is extremely low. For example, their data show 7,800 year-old sediments at 1449 feet (10 feet below the current overflow elevation of 1459 feet) and 7,300 year-old sediments at 1453 feet (six feet below the current overflow elevation of 1459 feet) despite seven overflow events having occurred in the last 8,000 years. In fact, their data show 1,100 year-old sediments one foot below the current overflow elevation despite an overflow occurring about 700 years ago. The EIS should explain that there is no evidence in the geologic record to indicate that significant erosion has occurred in the Tolna Coulee in any of the seven overflow events that have occurred over the past 8,000 years, and there is no credible scientific evidence that significant erosion is likely to occur if Devils Lake should overflow again—and, therefore, that the potential for a "catastrophic overflow" is a myth with no basis in scientific fact.

Although the likelihood of an overflow occurring to the Sheyenne River is very low even with the novel assumptions and selected data proposed in the *Newsletter*, the probability of such an overflow then resulting in significant erosion is even lower. Never-the-less, the EIS should evaluate the alternative of constructing a control structure to regulate the flow through the Tolna Coulee in the remote event that Devils Lake should approach 1459 feet even after extensive wetland restoration in the Devils Lake Basin.

Infrastructure

In addition to evaluating alternatives for continuing measures to raise roads, protect infrastructure, evacuate areas subject to flooding, and maintain and raise the levee protecting the City of Devils Lake, the EIS should address alternatives for compensating farmers and other landowners around the lake whose land is flooded. This could involve fee purchase of private land and conversion to a publicly owned "green belt" around the lake when the level recedes, and it could include lease-back provisions for agricultural lands in some cases.

Outlet to the Sheyenne River

In addition to addressing, objectively and in detail, the efficacy of the proposed outlet alternatives in controlling the level of Devils Lake under different assumptions regarding future precipitation, and the economic feasibility of each outlet alternative, the EIS is required by the National Environmental Policy Act (NEPA) to address, not simply the impacts of the proposed outlet alternatives on downstream water quality and quantity, flooding and erosion, but to describe, in detail, the direct, indirect and cumulative impacts on the entire ecosystems of the Sheyenne River Valley, the Valley of the Red River of the North and Lake Winnipeg. In addition, NEPA requires that the cumulative impacts of related federal actions be considered, as well. Therefore, with the passage of the Dakota Water Resources Act of 2000 in December 2000, the EIS must consider the cumulative impacts of the proposed outlet alternatives in conjunction with the potential delivery of Missouri River water to the Sheyenne River and Red River Valley under the a Red River Valley Water Supply Project, as provided in Dakota Water Resources Act. For example, the EIS must not only assess the risks and evaluate the potential impacts of biota transfer from Devils Lake to the Red River and Lake Winnipeg, but it must assess the risks and evaluate the impacts of an outlet as they would be influenced by the delivery of Missouri River water to the Sheyenne River under a Red River Valley Water Supply Project.

The EIS should also discuss in detail the potential impacts of the proposed outlet alternatives on the Devils Lake ecosystem and Lake Ashtabula. For example, the EIS should address the impacts of the removal of water from Devils Lake via an outlet on future levels of Devils Lake and on the Devils Lake fishery, including the rate at which the lake is likely to decline to levels incompatible with the current fishery. Similarly, the EIS should discuss in detail the impacts of Devils Lake water on water quality and the fishery of Lake Ashtabula.

Illegal Scoping Process

The U. S. Army Corps of Engineers St. Paul District's March 1998, Issue #1, *Devils Lake Emergency Outlet Newsletter* announced public scoping meetings to define the specific issues, impacts, and alternatives to be analyzed in an Environmental Impact Statement of a proposed 300 cfs outlet from Devils Lake to the Sheyenne River. The *Newsletter* noted that Public Law 105-18, the Emergency Supplemental Appropriations Act signed in June 1997, specifically provides:

> "That with $5,000,000 of the funds appropriated herein, the Secretary of the Army is directed to initiate **and complete** preconstruction engineering and design **and the associated Environmental Impact Statement** for an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River." (Emphasis added)

and the *Newsletter* stated specifically that:

> **"Results of the various studies required during preparation of the EIS will be available for public review either as they are prepared, or as part of the Draft Environmental Impact Statement** when it is completed and released for public comment." (Emphasis added)

The *Newsletter* then outlined a schedule which showed the Draft Environmental Statement for the proposed outlet being released in the fall of 1999.

However, despite the congressional directive that the Corps complete a draft environmental statement for the proposed 300 cfs outlet with the $5,000,000 appropriated in 1997, and despite the fact that the results of the studies that were prepared with that $5,000,000 in public revenues are manifestly relevant to and important in defining issues, impacts and alternatives in the current public scoping process, neither that draft EIS nor the associated reports that were developed in conjunction with the various studies conducted during preparation of the draft EIS have been made available by the Corps for public review. Therefore, until those reports are released to the public and the Corps schedules additional public scoping meetings where their results can be discussed by the public, this scoping process will remain in violation of the National Environmental Policy Act, as well as of a clear and specific directive from the Congress.

Sincerely,

Gary L. Pearson

Gary L. Pearson, D.V.M.

-Original Message-----
From: Dexter Perkins [mailto:Dexter_Perkins@mail.und.nodak.edu]
Sent: Thursday, April 12, 2001 9:06 AM
To: Anfang, Robert A
Subject:
April 11, 2001
Dear Army Corps of Engineers,
Unfortunately I was unable to attend any of the recent scoping meetings re. Devils Lake. But, I would like to make the following point: There is ample evidence to suggest that much of the problem at Devils Lake is due to upland drains that deliver water to the lake. In fact, all hydraulogic studies I have seen suggest that the amount being delivered by the upland drains is greater than could be practically removed by building a lake drain to the Sheyenne River. Therefore, I believe your EIS should adress as part of an alternative, or perhaps as a separate alternative, closing the upland drains. This not only seems scientifically sound, it is reasonable and prudent as well.
Sincerely,
Dr. Dexter Perkins
1112 Cottonwood St.
Grand Forks ND 58201
701-746-1634
dexter_perkins@und.edu

042001-Pytlik

Anfang, Robert A MVP

From: Northwestern Industries [leon_nwi@valleycity.net]
Sent: Friday, April 20, 2001 3:46 PM
To: Anfang, Robert A
Subject: Devils Lake

Dear Sir, I have lived in Valley City for over 60 years, and I have walked the banks of the Sheyenne for most of those years. I can't walk in many places that I used to walk, because those trails are now gone. High water has washed the banks away. We have had several "one hundred year" floods in the past 8 years. I feel sorry for anyone who has had a problem with flooding, but I don't believe the problem should be passed downstream. How anyone can say that drainage has not multiplied the problem is unbelievable to me. I use the example of an egg carton divider and a flat cookie sheet. Pour a quart of water on each one of them and compare the runoff. Sir, that is what has happened to the land. Sincerely, Leon Pytlik, 250 6th St. N.W., Valley City, N.D. 58072

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

COMMENT FORM: The purpose of these meetings is to identify any new or additional issues associated with the alternatives that should be addressed in the Environmental Impact Statement. Any new issues can be identified on this form and mailed to the Corps at the following address by 20 April 2001. Email responses are also acceptable.

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

Mr. Anfang + Mr. Lass:

I offer these pictures that relate to run off to the Sheyenne. These pictures were taken by myself the A.M. of April 6-01. After a rain of 1-2 inches the afternoon & evening of April 5th 01. Pictures #1 & 1 put together show the inflow from the East which we talked about the town sliding my old Home. Picture # 2 & 2 relate to the area 1 mile south of #1 pictures, the place with the new Box Culverts we talked about (Note the new Black top over new Culverts). These show flow at this point. The other pictures show input to Sheyenne on the east edge of Valley City, these four pictures are different views of the Same Creek.

Please consider inflows on EIS.

[illegible signature]

No Date- B Sauer
(Pg. 3)

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
2 – 5 APRIL 2001

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District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

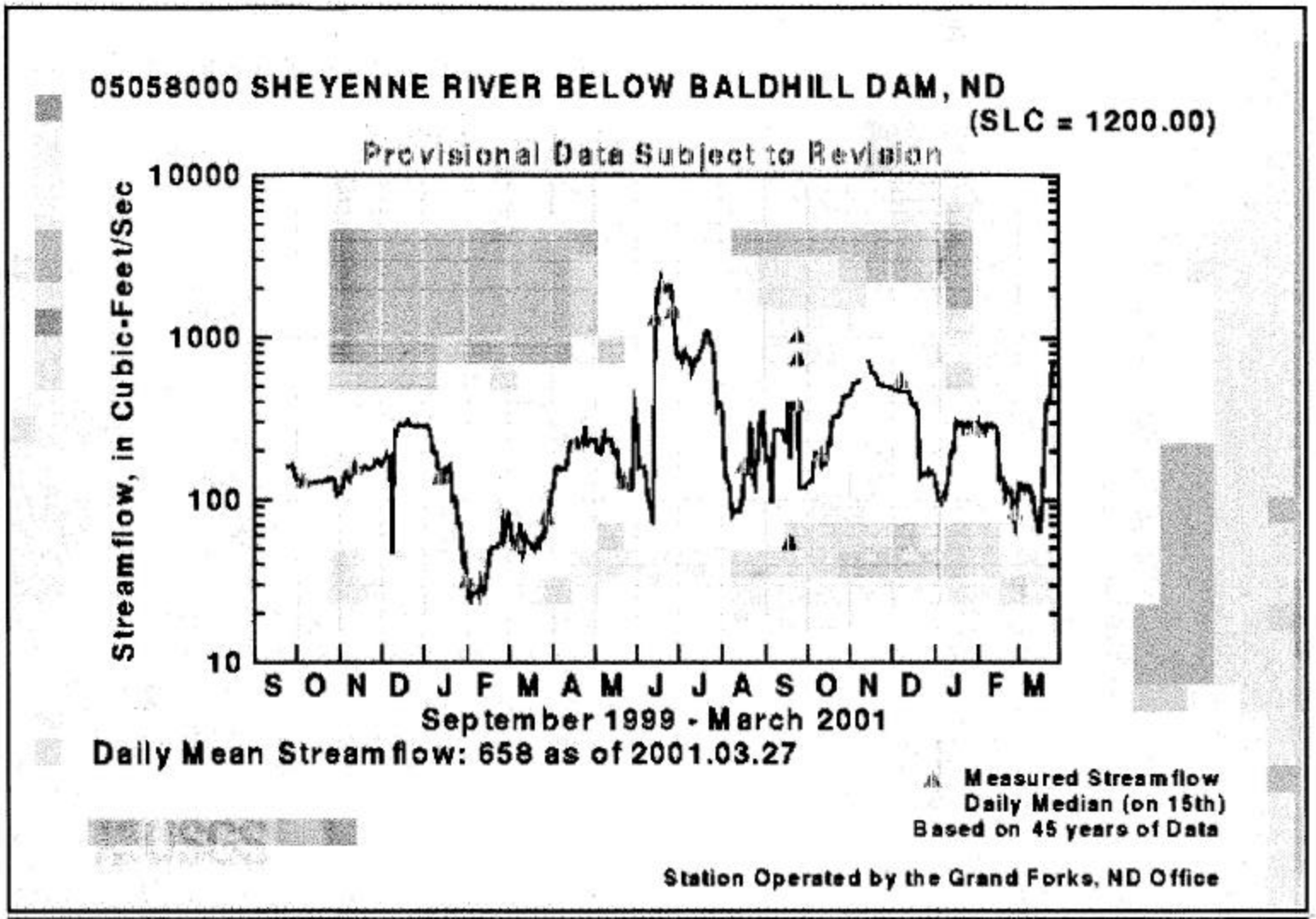
Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

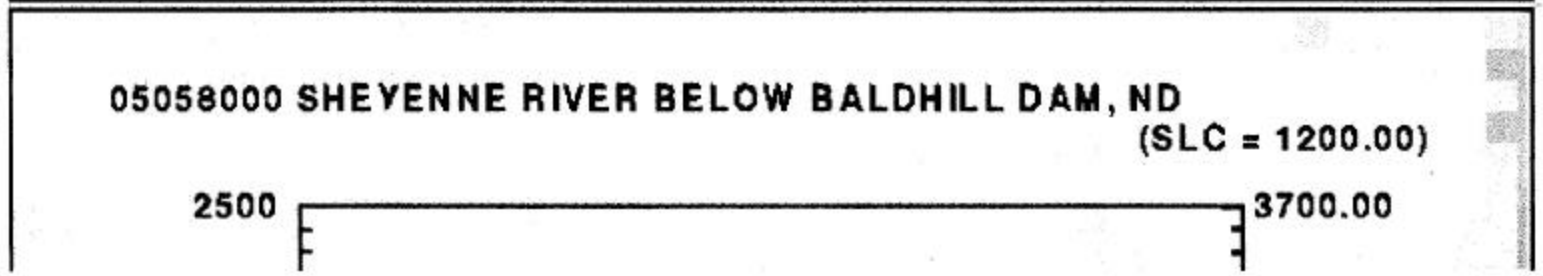
Alternative: Consider a pipe line from D.L. to. Red River at Fargo, This stops all downstream impacts and could also be used in future to supply water to eastern part of N.D.

② Consider NO outlet, Close all IN coming drains, Buy Homes & Property, Contain the problem There, Cap The Spill from Stump Lake to the Sheyenne. Capping the Spillway is just as Natural as 22,000 drains Both Man made.

③ Please consider these Maps which show the High Flows in the Sheyenne, May – NOV leaving Little room for D.L. water and instant IN put from Moderate + Heavy Rain Events.

VC





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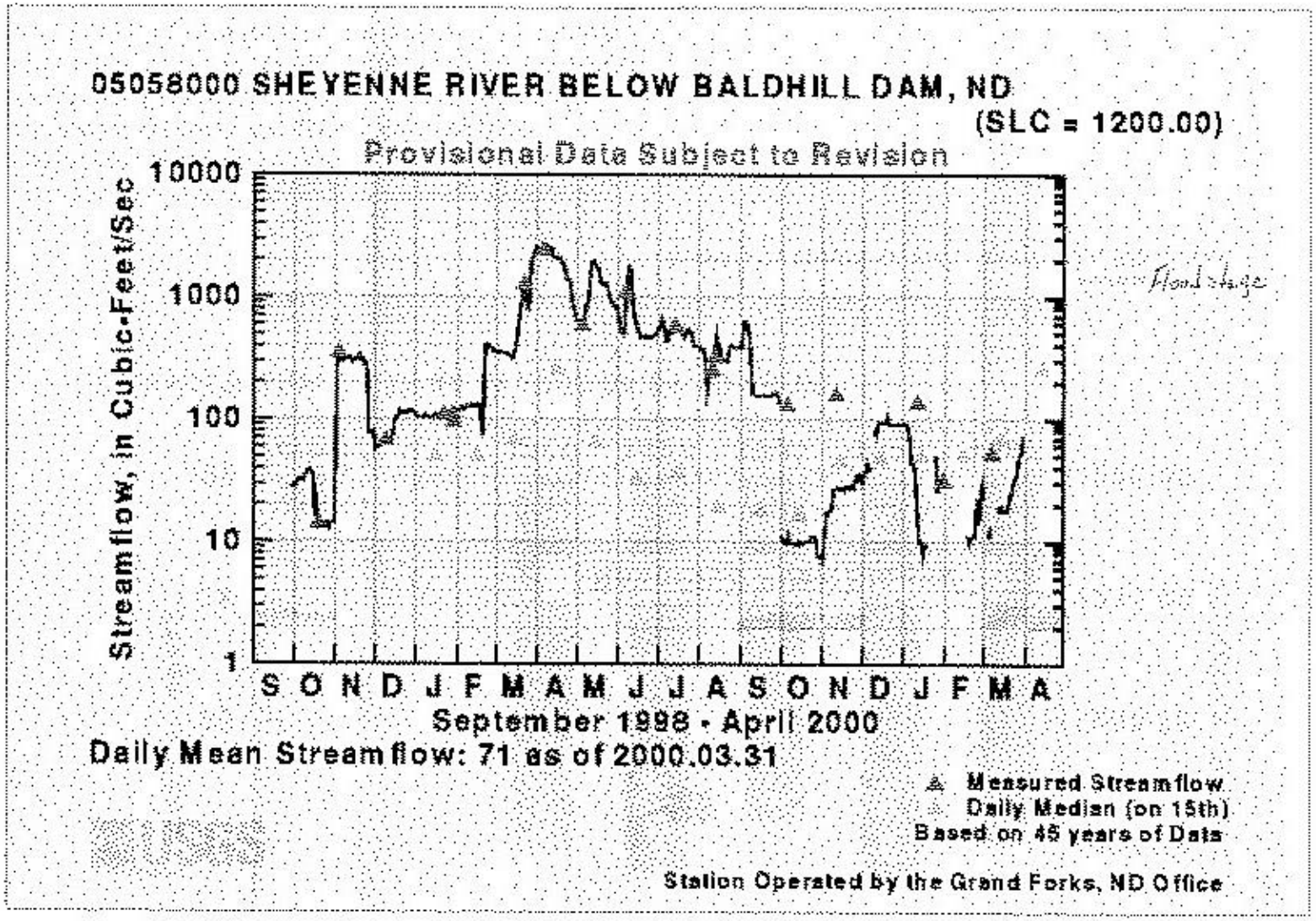
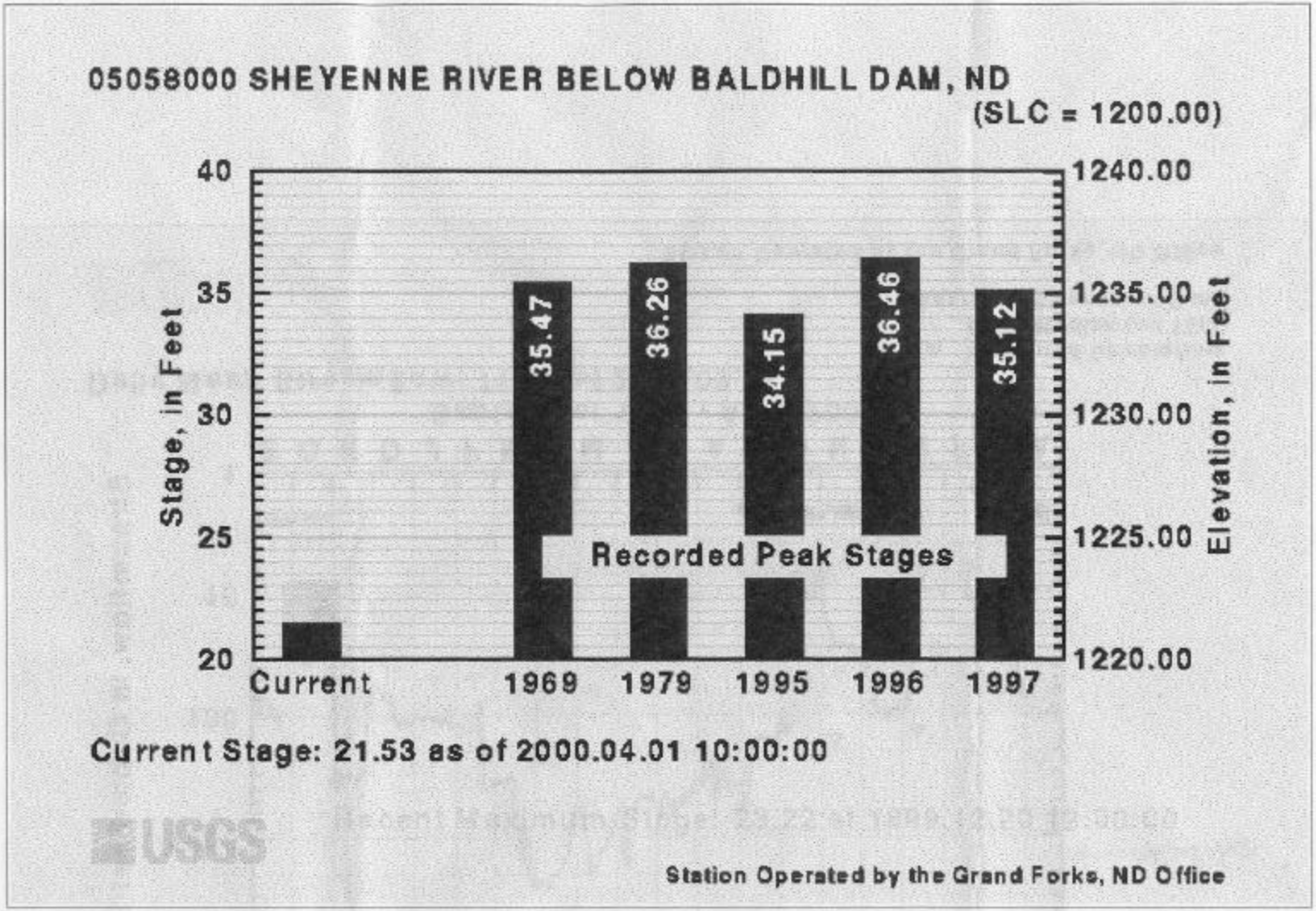
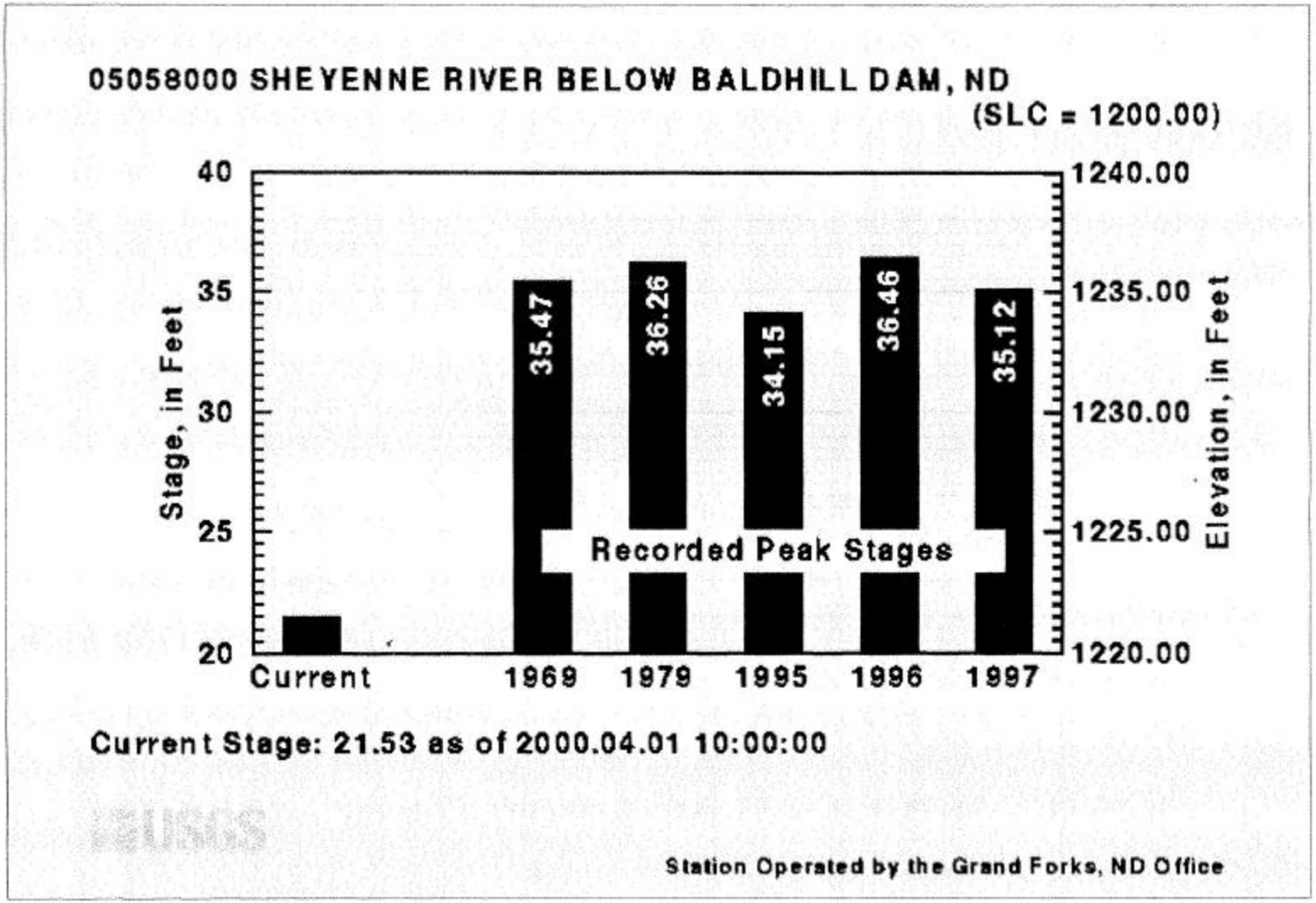
(Pg. 2 of 5)


05058000 SHEYENNE RIVER BELOW BALDHILL DAM, ND
(SLC = 1200.00)
Provisional Data Subject to Revision
Streamflow, in Cubic-Feet/Sec
10000
1000
100
10
1
Flood stage
S O N D J F M A M J J A S O N D J F M A
September 1998 - April 2000
Daily Mean Streamflow: 71 as of 2000.03.31
Measured Streamflow
Daily Median (on 15th)
Based on 45 years of Data
Station Operated by the Grand Forks, ND Office



Retrieve a postscript version of the current discharge hydrograph.
Retrieve a postscript version of the current stage hydrograph.
Retrieve a postscript version of the current stage bargraph.
Retrieve the rdb data file used to create the current hydrographs.
Retrieve a postscript version of the long term discharge hydrograph.
Retrieve the rdb data file used to create the long term hydrograph.



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SUPPLEMENTAL SCOPING MEETINGS
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2 – 5 APRIL 2001

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190 5th Street East
St. Paul, MN 55101-1638

robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

1. Considering the flows in the Sheyenne the past few years, in this wet cycle, the possibility exists for massive damage to the Sheyenne, and all in it's path, with the addion of Devils Lake water and heavy rain events, which can cause immediate impact to life + property AS well as extended impact to river Banks, personal property, Crop land, pasture Land AS well as access to properties cut off by constant high flows.
2. I would ask that a Monatrium Be placed on all drainage And Cleanouts in the upper Basin and Sheyenne River Basin at least until ANY outlet is closed and permanetly discontinued !

Y C S
4038 Sheyenne Valley EST
/alley City, ND 58072-9534

Elton Sauer
Valley City

SUPPLEMENTAL SCOPING MEETINGS
DEVILS LAKE STUDY
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I think it is important to determine how the water got into Devils Lake and what we can do to prevent future inflows. Other concerns are; along the Sheyenne River are Native American burial grounds and Sacred Sites, a Scenic Byway and Backway, and a Proposed Wild and Scenic River designation.

I am not afraid of a natural overflow from Stump Lake. If it happens, we will have time to get out of harms way.

Yvonne Sauer
4038 Sheyenne Valley Est.
Valley City, ND 58072-9534
701-845-4044 yes@ictc.com

6375 47th Street NE
Minnewaukan ND 58351
April 17, 2001

District Engineer, St. Paul District
U.S. Army Corps of Engineers
Attention: PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

Dear Mr. Anfang;

I am writing this letter to urge you to reconsider East End options for a Devils Lake outlet and to convey the importance of an outlet for Devils Lake.

I understand from the Devils Lake Journal (April 5, 2001,page 1) that the Army Corps of Engineers isn't seriously considering an outlet from East Devils Lake because of concerns with sulfates and Total Dissolved Solids. I urge you to please reconsider this decision. I feel that dealing with sulfates and TDS in downstream water plants that are already treating their water makes more sense than treating all the flow from Devils Lake. I also feel that many of the so-called "water quality problems" will never materialize. I believe that an outlet from east Devils Lake (The Tolna Coulee outlet) or mid Devils Lake (the Twin Lakes Outlet) should be built. These outlets closely follow the natural drainage routes of the lake and make use of gravity to move water, thus lowering costs dramatically. I also feel that an outlet project that requires pumping and/or water treatment makes the outlet project unnecessarily complicated and expensive. It also saddles the area governments with huge costs for years to come on top of the costs they have already paid for this flood.

I am extremely frustrated with the endless "studying" of Devils Lake flooding. Every additional year spent "studying" the Devils Lake flooding situation is another year that additional money is wasted on short-term solutions such as road raises, dike raises, and house moves with no long-term solution to the region's flooding problems. The present pace of movement on this project is going to lead to an outlet that is too little and too late. The slow pace of movement on outlet construction also causes other problems such as; 1.) Increasing the cost of the flood to this region. 2.) Overflow may be reached before the outlet is constructed if there are any problems with the design or construction. 3.) Design and operation options decrease as time passes because the outlet must be larger and operate for a larger portion of the year to be effective.

I encourage you to go forward with an outlet which closely follows the lake's natural drainage routes, uses gravity to move water, and moves water with minimal downstream impact because the flow is controlled. I hope that construction of such an outlet can begin relatively soon to maximize its benefits.

Sincerely;
Francis Schneider Jr.
Francis Schneider Jr

SUPPLEMENTAL SCOPING MEETINGS
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robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

1. Don't believe for a moment, that if you build a structure or armour the natural outlet, that the DL Basin wouldn't be in court prohibiting such a move.

2. Use the past 8 years for your projections - By using the 50 years, you haven't even been close - Try common sence once. You & your studies.

3. We were assured that the cost ben. fac ratio wouldn't be affected by improving the infracture by Dorgan - What happened?

4. You're killing our area by your inability to do anything but study - you must be very proud of your position & job - Doing nothing but taking Big money to perpetuate your jobs —

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ATTN: PP-PM-E (Anfang)
190 5th Street East
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robert.a.anfang@usace.army.mil

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The biggest problem is that the controlled part of the outlet will only be at the source. Downstream during the months of release and heavy rains, we people North of the W.F. Diversion will again be in dire straits. I can see by this springs run off again that 6" to 12" of water would have been catastrophic to this area. Either admit the mistakes made with the diversion channel and help us out or forget about the Devils Lake Outlet!

040901-Vandrovee

PM A

Apr, Monday 9-01

Subject:

Draining Devils Lake.

I attended a meeting last fall at the Valley city Eagles hall.

I was given two brochures concerning the drainage.

One was from the U. S. Geological Survey and the other from "Save the Sheyenne" group.

The Geological Servey gave their points which seemed logical.

Soon after the "Save the Sheyenne" representative gave mostly selfish Critizism & a hostile point on erosion + etc.

Mayor Ryley Rogers (of V.C.) was present and stated that the water flow was no problem as long as it could be purified. He was concerned of higher costs if the water had more impurities then now.

The discussion turned one sided That I chose to leave.

Since then I have talked to various people and their opinion was to save the people of Devils Lake - the farms & the City rather then to "save the Sheyenne" which has taken care of itself for eons of time.

It's purpose is to carry water. These people represent only themselves and not the greatest good for the greatest number.

Thank you,

John H. Vandrovee
744 - 3rd ave NE
Valley city, N. Dak
58072-2612

P.S.
I farmed for 46 years in Barnes County. and am retired 21 years.

Donald Vig
3115 110 Avenue Southeast
Valley City, North Dakota 58072
701-845-5445
don@valleycity.net

April 4, 2001

David C. Loss
U.S. Army Corps of Engineers
190 5th Street East
St. Paul, Minnesota 55101-1638

Dear Mr. Loss;

There are three fundamental flaws in the assumptions made to provide input to the Record of Decision that I have examined so far. The first is that Devils Lake will overflow into the Sheyenne River.

A 1.8% chance in fifteen years is hardly an assurance that the lake will overflow. In fact the reverse, a 98.2% chance that it will not overflow is much more defensible for the purposes of making an assumption. Furthermore, it is flawed to characterize an overflow as a natural overflow unless every drained wetland in the upper basin of Devils Lake has been restored. U.S.A.C.E. must have higher standards of reason in making these assumptions. I would ask that any reference to a natural overflow be eliminated until every drained wetland has been restored and, reconsidered only if the lake continues to rise.

The second flaw I wish to address is associating Upper Basin Management with A.S.A.P. (Available Storage Acreage Program). There is no argument from anyone that there are about 22,700 man made drains in the Devils Lake Basin. The estimate that there are 40-60 thousand acres of drained wetlands is arguable. This would mean that there would be an average of between 1.8 and 2.6 wetland acres per drainage ditch. Furthermore, the estimate that the average depth of the wetlands of 8.5 inches is way too shallow. Farmers aren't that dumb. Farmers do not take their scrapers out for 2 acres and 8.5 inches. These numbers are probably near the minimum for farmers to consider draining. If there are 8.5 inches in a wetland when the frost goes out of the ground in the spring almost all of that disappears. To associate Upper Basin Management with ASAP, i.e. total available storage, leaves out the idea of total wetland restoration. In a wet cycle, and for the purposes of making assumptions, it is much more defensible to assume that every drained wetland is a contributing wetland. In a wet cycle what would normally be called a non-contributing wetland overflows, and hence every wetland that has been drained into the normally non-contributing wetland becomes a contributing wetland. I would ask that any reference to ASAP be eliminated and that Upper Basin Management be equated to mean complete wetland restoration.

The third flawed assumption is in the Soil Salinization Hazards Report. It is inconceivable how this came to be under consideration for Upper Basin Management. If USACE is not considering bringing in fill containing shale and dolomite from outside of the Devils Lake basin to plug man made drains, then the potential for soil salinization is not increased. Restoration of a wetland by plugging a man made drain is not the same as creating a wetland where non existed before. Salinization is a natural phenomenon of the area and therefor should not be counted as a cost against wetland restoration. I would ask that any reference to soil salinization in the upper basin of Devils Lake be removed from consideration.

A basic and defensible assumption to make throughout all of the studies regarding the flooding problems is that in a wet cycle: "when it's wet, it's wet all over". To contribute to flooding in the Sheyenne and Red Rivers without first preventing as much inflow as naturally possible into Devils Lake is indefensible. In each of these flawed assumptions identified, a wet cycle counts against upper basin wetland restoration but not against, by definition, an unconstrained outlet.

It is regrettable that the North Dakota State Water Commission, the Devils Lake Joint Water Resources Board and North Dakota politicians are attempting to coerce USACE to compromise its normally sound scientific principles.

It is fundamentally unjust that the Devils Lake Joint Water Resources Board and the State of North Dakota choose to shift problems to those downstream who have had no say in the decisions that to a large degree created the problems.

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robert.a.anfang@usace.army.mil

Please provide any comments below. Name and address are optional, but if you want to be added to the mailing list, please provide your name and complete mailing address.

Wilton B. Webster
611 7th St
Devils Lake N. Dak 58301

April 19, 2001

District Engineer, St. Paul District
U.S. Army Corps of Engineers
ATTN: PP-PM-E (Anfang)
190 5th Street East
St. Paul, MN 55101-1638

To Whom It May Concern:

It is my feeling that Devils Lake's outlet problems can bear a second and third look. It would seem that potential solutions have gotten into the realm of politics.

Except for water quality, the East End outlet would seem to be the cheapest, most direct route to dispose of Devils Lake water. We do know that the Stump Lake water is not acceptable to downstream users as it is today - but we do not know what that quality will be at the time Stump Lake would run into the Sheyenne River. Dredging East Devils Lake to a depth of 1440 msl now would permit sufficient flow to preclude the necessity of the proposed multi-million dollar road raises being proposed for this year and would permit rail service to continue.

I consider the giant water pumps to be the least practical solution because of the cost to install them and run them. We need to take a long look ahead at the situation. We know that at some point the lake will begin dropping. At this point, the pumps will become useless and will eventually be sold for junk. We no doubt will still be paying for them.

The other route across the reservation, appears to be a necessary part of any permanent solution - but we don't want to the abandon the east end outlet because it will let the water quality in the lake gradually improve over a period of time. I think we need to dredge out the east end to 1440 msl with a control structures installed to control releases from the east end to Tolna Coulee and the Sheyenne River. Spring and summer flows between points of ingress and egress can be expected to be of better quality because of water density and temperature. This would become of increasing importance as the water moves east towards Stump Lake. Concern for downstream water quality should not preclude the use of Stump Lake as a reservoir this year.

The contractors anticipating income from road raises and bridge construction would be disappointed, but that money is spent in a negative manner. Only a small portion of it would be needed to open East Devils Lake to Stump Lake.

When I speak of the situation having gotten into politics I refer to some to the downstream hysterics in regard to stream flows and bank erosion. Also the Canadian fears would seem to be unnecessary in large part. Lake Winnipeg having an area of 9,094 square miles is rated as the thirteenth largest fresh water lake in the world. The Caspian Sea is much larger, is not fresh water and is below sea level.

The idea that a 300 C.F.S. flow from Devils Lake could pollute the Red River and Lake Winnipeg is quite a stretch. There are at least a dozen rivers and their tributaries flowing into the Red River.

Canada does have a stake in Devils Lake as a sport fishery and water sport lake as each dollar spend in Devils Lake is not spent in Canada. A few million a year over 100 years is a considerable sum.

I feel it is a good idea to make the expenditure of federal tax money and local tax money, as well, serve a purpose. I would suggest money spent towards permanent solutions to be spent in a positive manner while money spend for road raises, bridges, and dikes and moving buildings to be spend in a negative manner.

If we move quickly we can utilize Stump Lake as a reservoir this year and take the pressure off the infrastructure upstream and locally as well. We have spent entirely too much time and money going to meetings, doing study after study, and only postponing any action. It will take the Corps of Engineers several more years of study before any dirt is moved, mean while our situation can only deteriorate.

Sincerely,

Wilton B. Webster

Wilton Bake Webster
Churchs Ferry Farmer